the weekly
Standard

DECEMBER 18, 2000

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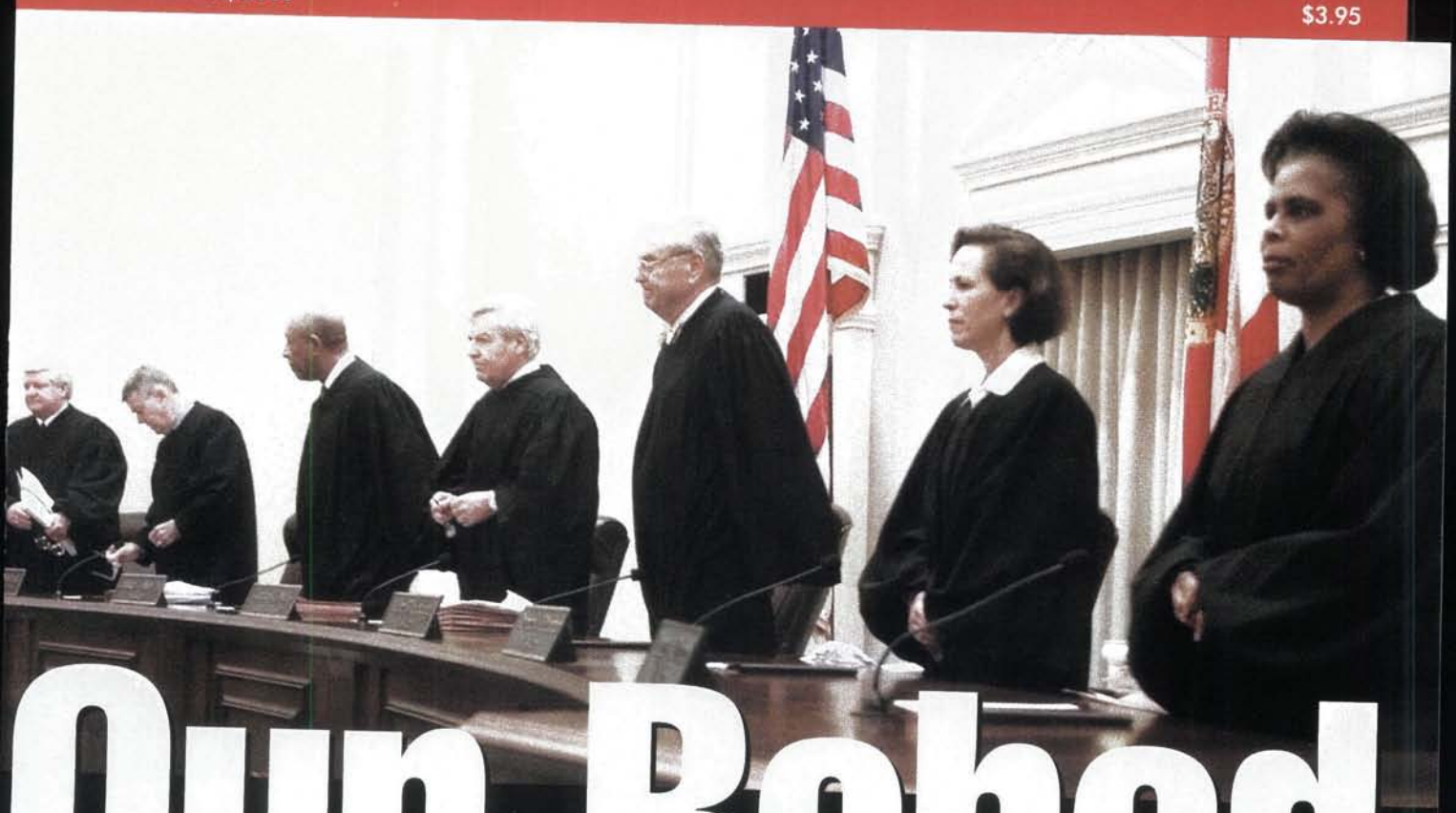

Our Robed Masters

Travesty in the Florida Supreme Court

WILLIAM KRISTOL • ROBERT N. HOCHMAN • NELSON LUND

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the weekly Standard

THE WEEKLY STANDARD (ISSN 1083-3013) is published weekly (except the last week in April, the second week in July, the first week in September, and the second week in January) by News America Incorporated, 1211 Avenue of the Americas, New York, NY 10036. Periodicals postage paid at New York, NY, and additional mailing offices. Postmaster: Send address changes to THE WEEKLY STANDARD, P.O. Box 96127, Washington, DC 20077-7767. For subscription customer service in the United States, call 1-800-274-7293. For new subscription orders, please call 1-800-283-2014. Subscribers: Please send new subscription orders to THE WEEKLY STANDARD, P.O. Box 96153, Washington, DC 20090-6153; changes of address to THE WEEKLY STANDARD, P.O. Box 96127, Washington, DC 20077-7767. Please include your latest magazine mailing label. Allow 3 to 5 weeks for arrival of first copy and address changes. Yearly subscriptions, $78.00. Canadian/foreign orders require additional postage and must be paid in full prior to commencement of service. Canadian/foreign subscribers may call 1-850-682-7653 for subscription inquiries. Visa/MasterCard payment accepted. Cover price, $3.95. Back issues, $3.95 (includes postage and handling). Send manuscripts and letters to the editor to THE WEEKLY STANDARD, 1150 17th Street, N.W., Suite 505, Washington, DC 20036-4617. Unsolicited manuscripts must be accompanied by a stamped, self-addressed envelope. THE WEEKLY STANDARD Advertising Sales Office in Washington, DC, is 1-202-293-4900. Advertising Production: Call Ian Slatter 1-202-496-3354. Copyright 2000, News America Incorporated. All rights reserved. No material in THE WEEKLY STANDARD may be reprinted without permission of the copyright owner. THE WEEKLY STANDARD is a trademark of News America Incorporated.

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Clinton's Most Irresponsible Statement Ever

Just when THE SCRAPBOOK was tempted to give Bill Clinton some small amount of credit for lying low during the Florida litigation, we came across a remarkable interview that the president granted to New York *Daily News* gossip columnist Mitchell Fink.

"The Republicans don't want any more hand recounts because they know [Gore] won," Clinton told Fink when he was in New York for a fund-raising benefit November 30. That much was just a Gore talking point. The worst was still to come.

Clinton was asked if he thought there would be hand recounts conducted after Inauguration Day, since Florida law will make the ballots available to the public. "Definitely," he said. This, too, is a standard Gore talking point. For the past week every Democrat from Dianne Feinstein, to Dick Gephardt, to Mario Cuomo has been predicting that "someone" in a few months will examine the ballots under Florida's Freedom of Information Act, and (they then ask portentously) what will happen if we learn that Gore actually won?

Here's what will happen, Clinton told Fink: "Then America looks like a fraud. They'd kill us around the world. It will be harder to trust us from that point on."

It's a close contest, given all Bill Clinton has said over the past eight years, but this probably qualifies as Clinton's most irresponsible statement ever. So basically, says Clinton, if Al Gore does not succeed him in the White House, America's government will be "a fraud" in the eyes of the world. Thank you, Mr. President. ♦

Cosmetic Journalism

Of all the asinine post-election pieces THE SCRAPBOOK has read (trust us, we've read them all), there's been none worse than *Washington Post* fashion writer Robin Givhan's 800-word broadside against Florida Secretary of State Katherine Harris's cosmetics choices. Entitled "The Eyelashes Have It," Givhan savaged Harris for her "berry-red lipstick," for looking as "if she were wearing a mask," and for appearing to have applied her "makeup with a trowel." Meow.

As an excuse for her column—which prompted hundreds of complaints and two denunciatory columns from the *Post*'s new ombudsman, Michael Getler—Givhan lamely argued that by making such poor cosmetics choices, Harris "failed to think for herself. Why should anyone trust her?" Givhan's foray into politics demonstrates why writers who capably explore important topics such as the perils of wearing linen after Labor Day should stay on their side of the newsroom. But just as we were about to award Givhan the Most Asinine trophy (a bronzed jawbone of an ass), along came Geneva Overholser.

Now a syndicated columnist, Overholser herself served as *Washington Post* ombudsman until 1998. If media critics are too often lazy journalists who wish to be paid to read other people's newspapers, ombudsmen are too often lazy media critics who get paid to read their own paper. The breed is given to composing intellectually soft, self-serving, pompous pronouncements. Overholser does all these things—sometimes in the space of a single column—as she did when she came to Givhan's defense last week. Not only does Overholser feebly assert that making fun of Harris's make-up isn't the same as "assessing a woman senator's hips" (wonder which senator she means?), but she then echoes Givhan, asserting that Harris's "cosmetics choices" are "way out of the norm. If you watched her on TV and didn't think so, the women in your life look different from the women in mine."

But wait, there's more. Overholser clumsily appends a feminist manifesto, the likes of which THE SCRAPBOOK hasn't read since a Womyn's Studies teaching assistant teed off in our university newspaper. Givhan's piece, she writes, "made me think about the choices women make, and why, and society's changing views of cosmetics," which leads to "what really burns me . . . the fact that so few women's views are represented on America's major opinion pages." Check, please.

Give this much to Givhan: Unlike Overholser, she can put a great sentence together. Harris's skin, wrote Givhan, "had been plastered and powdered to the texture of pre-war walls in need of a skim coat." Not bad. Imagine what Givhan could do with worthier subject material, like, say, the unemployed-librarian couture of David Boies. ♦

The Murtha Gambit

When Dick Cheney met with House GOP whip Tom DeLay last week, he got an urgent piece of advice. "The first person you should call on Capitol Hill is Jack Murtha," DeLay said. Murtha is a veteran Democratic House member from Pennsylvania who's not well known to the public. But he's a powerhouse, and someone willing to work with Republicans on issues he cares about, which include defense.

In 1999, when President Clinton threatened to veto the military spending bill as too hefty, Murtha took to the House floor to say he'd work to over-

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ride Clinton's veto. The next day, the White House retracted his veto threat. "When Murtha flexes his muscles, he's a man among boys," says a GOP admirer. Murtha, an ex-Marine, is not a conservative. He's an old-fashioned labor Democrat, hawkish on defense and traditional on cultural issues, liberal on economic and domestic policies. Murtha could help Bush, assuming he becomes president. His presence as an ally of Bush on any issue would signal to other Democrats that, despite what Democratic congressional leaders say, it's all right to work with Bush.

Equally important, Murtha brings other Democrats with him. "If he promises to line up 40 votes, you can count on it," says a Republican aide. Cheney, a former House member and defense secretary, knows Murtha. Bush doesn't, but a call may be coming. Rep. Murtha, stay near the phone. ♦

Hitler Youth for Bush?

The most bizarre Florida moment of the past month came courtesy of Matthew Staver, a lawyer who intervened on behalf of Seminole County absentee voters against the unsuccessful suit brought by a Gore loyalist to throw out the absentee votes cast in that county. As part of his closing argument, Staver read a personal appeal from one of the voters who would have been disenfranchised if the county's absentee votes had been disqualified. His purpose, presumably, was to tug at the heartstrings of observers and help persuade Judge Nikki Clark not to exclude any of the absentee votes. So he read parts of an affidavit from one Helga Powell, a Seminole County resident, absentee voter, registered Republican, and . . . oh yeah, she's also a former member of Hitler Youth.

"I was born in Nuremberg, Germany, during World War II and under the Nazi dictatorship," her affidavit began. (At that point, we thought Staver was a Republican Alan Dershowitz and had found a Holocaust survivor whose vote would be thrown out if the Democrats got their way. But no.) "I was a member of the Hitler Youth," Powell continued, "because it was required to attend school, and during those times, we could not protest any form of governmental action." Mrs. Powell (who we'll stipulate may well be a great American) went on to sing the praises of the "right to vote," and to explain that she holds that right "so dearly" she "cannot remain silent."

Call us perfectionists, but it occurs to us that a lawyer with a keener sense of public relations might have encouraged Mrs. Powell to create a web page as the avenue for her protest, rather than read her affidavit aloud in court. We cling to the hope that this will turn out to have been an exceptionally devious Democratic dirty trick. ♦

Extra! Extra!

As events warrant, The Scrapbook will post on The Weekly Standard website analysis of developments in the post-election. The direct link is *www.weeklystandard.com/election2000/index.html.* ♦

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Casual

Dim Bulbs

The last thing my sisters and I would do on Christmas Eve—before retiring to our separate rooms and our private paroxysms of insomniac anticipation—was make sure our parents had put out cookies for Santa Claus. After all, we didn't know the man. Perhaps he was the type who, sensing a niggardly welcome, would revise his Good Little / Bad Little Boy calculus and haul our toys right back up the chimney, to bestow on worthier children in Oklahoma or France.

"Where are the cookies?" we'd ask. My father would by then be pouring some brown liquid into bulbous glasses we never saw except at Christmas. "Santa prefers brandy," he'd reply. We never stopped to reckon what a couple glasses at every stop between the North Pole and our house in Massachusetts would do to Santa's mood. (*Ho, ho, ho*, indeed.) We'd insist that Dad put a few cookies on a plate anyway, but every Christmas morning he was proved right. The brandy snifters would be bone-dry. The cookies would still be lying on the hearth.

Santa's taste in beverages is, besides, a matter of record. Anyone younger than 30 is likely to view that staple of 1960s sitcoms and stand-up comedy—the department-store Santa so boozy that he hiccups and slurs—as mere black humor. It wasn't. In the full-employment economy of the late 1960s (my Santa-believing heyday) who else but a drunk would be free for two weeks of minimum-wage work? (Years ago, a friend had an embarrassing moment when his 4-year-old daughter leapt onto the lap of a particularly well-oiled Saint Nick and shouted back at the line snaking through the Men's Shoe department, "Hey! Santa smells just like my daddy!") Today, alas, hard cases aren't permitted on Santa's throne, so your average Santa is some high-school kid whose voice hasn't yet cracked.

At some point, we dumped the motto "'Tis the Season to Be Jolly" for "Safety First!" and Christmas became wholesome, classy, and risk-free. Take the institution of the office Christmas party, which in the Golden Age of the Corporation was a smoke-filled Rabelaisian blowout, a Mardi Gras–bachelor party–fraternity hazing squeezed into three or four afternoon hours, that would supply water-cooler gossip until the next

Labor Day. There are present-day office Christmas parties, of course, but they bear no more relation to the purpose for which they were designed than do present-day honeymoons. And a trickle-down anhedonia affects younger celebrants: Where are the chocolates and petits fours that used to be laid out in every room for children to eat by the fistful?

The earliest sign of a paradigm shift came around 1970 with the federal ban on that beautiful lead-based tinsel that hung vertical off a Frazier fir. We applied it in such profusion that our tree always wound up looking like some kind of warhead. The reason no one trims his tree with tinsel anymore is that today's "child-safe" polyurethane substitute flies off the tree like staticky hair.

Christmas week, we would beg to be driven through French-Canadian neighborhoods in Salem where those big knobby primary-colored cone-shaped bulbs were strung along every porch railing, and floodlit Santas, homemade crèches, and glow-in-the-dark plastic snowmen crowded the front lawns. Today's light displays—austere monochrome veils that dangle from the eaves—are for grown-ups.

It's not that today's decorations are uniformly uglier. On the contrary. It used to be fun to walk downtown past shop windows foamed up with shaving cream to look like "snow." But today you can go to a mall and see a full *son et lumière*, with ice sculptures and three-story-high crystal Christmas trees. Our stockings were hung by the chimney with care, but they were rugged articles—an asbestos sheath dipped in red dye #2, and personalized by spelling our respective names in cursive with Elmer's Glu-All and then shaking sparkles on top of them. Today's stockings are the size of gondolas and look like an article of Louis XIV's formal wear.

Christmas as it's lived today is the work of those who, twenty-five years ago, whined about how "materialistic" the holiday had become, and how we'd lost the "meaning" of it. Materialism is today an insult flung at tacky—never fancy—things. Those who invoke it are expressing mere class anxiety, salted with pique at having to interrupt their careerism and cocktails and consumption to do things for *other people*. In an effort to make Christmas more "serious," they've taken away much of its moving solemnity and most of its fun.

"Well, go to Restoration Hardware!" you might say. "They sell those French-Canadian bulb strings! They sell those shiny ornaments that use special hooks and break if you so much as breathe on them!" But they don't sell the spirit of Christmas past—and there's *still* no store that sells that beautiful tinsel made of lead.

Too bad. It was delicious.

Christopher Caldwell

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A Burr in Our Saddle

Once again, Noemie Emery displays her mastery of Al Gore's psyche ("Our Aaron Burr," Dec. 4). One angle not addressed that concerns me much more than Gore's impact on domestic politics is how his mendacious, manipulative, compulsive, win-at-all-costs behavior would play in international relations.

Domestically, with the check of a legislature of the opposing party, the effect would be relatively harmless, if unproductive, gridlock. Internationally, I can envision utter disregard for his contributions combined with a global backlash against Gore's demeanor. I have been numbed by the thought that eight years of a widely despised presidency could be followed by an administration held in even lower regard.

Willard Rosegay
Omaha, NE

Noemie Emery sees Aaron Burr in Al Gore, but I think the veep is more like Superman. Not the high-flying man of steel who fought for truth, justice, and the American way; such traits are clearly anathema to Gore and many in his party. I mean the Nietzschean Superman, whose drive for power is so great that he believes he can acquire it by the sheer force of his will.

Pete Skurkiss
Chester Township, NJ

The Blame Game

I understand conservatives like David Tell are dismayed that an astonishingly close election might not be resolved in their favor ("The Gore Coup," Nov. 27). And, in the way that a close loss in a sporting event is often attributed by the losing team's fans to an incorrect call by a referee, it will be easy for partisans of the losing candidate to assign blame for the loss on an unfair bias in whichever authority is finally responsible for determining the winner.

Where Tell goes seriously wrong is in alleging wholesale fraud in Palm Beach County, while producing not a whit of evidence to support the allegation. If he suspects criminal acts, he must go out and discover them, not engage in idle partisan speculation which seeks to undermine the legitimacy of one of two utterly plausible outcomes to an election where any final adjudication of victory will be highly relativistic.

This election is maddening enough to those with faith in the existence of objective truth and in our ability to discover that truth; thus, it demands great rigor of those in the press attempting to comment on its complicated resolution. Tell, speaking for an ideology that claims objective truth as real and knowable, has failed to respond to that demand.

Eric Fredericksen
New York, NY

David Tell responds: My take on the results of Florida's statutorily mandated machine recount has generated an unusual number of angry letters like Mr. Fredericksen's, which suggests that I made a mistake when I decided to spare readers all but a condensed account of the elaborate statistical calculations that inspired my suspicions. I apologize to readers bored by numbers for the clarification that follows.

As first reported in the early morning hours of November 8, George W. Bush's lead over Al Gore in Florida was about 1,800 votes. Democratic voters are no more likely than Republicans to produce chads on their ballots, and tabulating machines do not misread valid ballots out of partisan bias. So any first-tally "undervotes" captured by those machines on a second try should logically have been awarded to Bush and Gore in percentages that mirrored those of the initial statewide count—that is, on a roughly 50-50 basis. Instead, Florida's machine recount "corrected" thousands of undervotes and scored them for Gore at a rate of four to one, slicing Bush's lead to 300.

The vice president's explanation for this phenomenon, widely echoed by his credulous sympathizers in the press, is that undervotes are more common in those counties employing "antiquated" punch-card ballots. Because these counties lean Democratic, the theory goes, it stands to reason that any undervotes properly captured in a machine recount would favor Gore.

Even assuming this hypothesis were valid, it could not begin to explain the actual results of the first recount. A large majority of Florida's major-party presidential votes were cast in punch-card counties, and Gore did win those votes by six percentage points over Bush, 53-47. But Gore did not run six percentage points ahead of Bush among the punch-card undervotes recovered by Florida's machine recount. Gore ran 30 percentage points ahead of Bush in the first, machine-amended returns those counties reported. Palm Beach County, whose honor Mr. Fredericksen is most eager to defend, went for Gore by slightly less than two-to-one over Bush in its original election-night tally. Palm Beach's ostensibly neutral machine recount, however, produced additional votes for Gore at a more than seven-to-one rate.

In any case, punch-card balloting simply cannot have been responsible for such bizarre results. Punch-card counties experienced many more undervotes on election night. But the vast majority of them remain unreadable to this day—so many of them, in fact, that machine recounts in punch-card counties produced proportionally fewer revised votes than recounts in the generally Bush-leaning counties that employ optical scanning technology.

If anything, in other words, Florida's machine recount should have slightly widened Bush's statewide lead. Palm Beach is a particular outlier here. Ten other counties use exactly the same punch-card ballots, supplied by exactly

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the same manufacturer. None generated recount numbers so radically skewed to Gore as those in Palm Beach.

Statisticians use something called "t-statistics" to test the likelihood of various mathematical results. On this scale, any t-statistic higher than about 3.7 represents a chance so small as to be essentially invisible.

Professor Matthew Spiegel of Yale has performed a standard probability analysis of the Florida machine recount. For Gore's statewide net gain in that recount, he calculates a t-statistic of 18.8. For Gore's net gain in Palm Beach, specifically, he calculates a t-statistic of 14.4. In layman's terms, these numbers are off the charts of innocent possibility. Spiegel has controlled for every conceivable alternative explanation and he finds it "impossible to believe" that "human intervention" is not the correct one.

I suspect neither "wholesale fraud" nor "criminal acts" in Palm Beach County. I suspect highly specialized fraud that may not be criminal at all. "It appears that partisan biases influenced the outcome" of Florida's machine recount, Prof. Spiegel has concluded. That's what I've concluded, too. There is considerably more than a "whit" of evidence to sustain that conclusion.

I hope the above helps restore Mr. Fredericksen's faith in objective truth. I believe the objective truth is as I have previously suggested.

A Highly Rated Author

Andrew Ferguson should be commended for his appreciative review of P.G. Wodehouse ("Divine Comedy," Dec. 4). Wodehouse's character Bertie Wooster once described Florence Craye, to whom he was engaged, as one who has "a wonderful profile, but is steeped to the gills in serious purpose."

Likewise, modern life suffers from an abundance of serious purpose, and to combat this affliction there is no better remedy than a generous dose of Wodehouse. In bringing news of this medicinal miracle to a wider audience, The Weekly Standard has performed a great service.

Daniel Love Glazer
Northbrook, IL

In Andrew Ferguson's article about P.G. Wodehouse, he says there is some dispute about when the books take place. In my opinion, it is equally uncertain where they take place. One story after another features a beautiful sunny day. That is not the England on this planet.

Garth Gould
Tucson, AZ

A photo caption in Andrew Ferguson's "Divine Comedy" states that P.G. Wodehouse received an honorary degree from Oxford in 1939. Directly below the photograph, Ferguson writes that Wodehouse did not set foot in England from 1920 until after World War II. How can both statements be correct?

Thomas M. Wilson
Syracuse, NY

Andrew Ferguson responds: I had it wrong, and the caption has it right. Wodehouse did indeed set foot in England between the wars, as the photograph shows.

Mystery Solved

While it's always a pleasure to be likened to Austin Powers, your attempt to prove I'm a raving schizophrenic fails on several counts (Not a Parody, Dec. 11).

Let me start with Exhibit 2 in your case. You cite two *New Republic* pieces, one of which urges readers to chill out since the substantive policy differences between Gore and Bush are actually not that big, and another which calls Gore a "danger to the country." The dates you put on these pieces—November 26 and November 27—do indeed make me look schizo. But you know as well as I do that issue dates at the *New Republic* are not real dates. In fact, the November 27 piece was written on November 14 and posted on November 16. It was my first real post-election piece, and, given all the uncertainties, I decided to write about the long view, not the short one. But my suspicions about Gore were there the week before in "TRB" when I fretted about a possible "coup," and indeed throughout the campaign when I had been a lonely Gore critic at the *New Republic*. Soon after, as the full extent of Gore's tactics became clearer, I devoted myself to worrying about his tactics, not the end result. "What matters now," I wrote the following week, "is not who wins but how he wins."

A few days after that piece, I vented in the *Sunday Times* at full throttle. An evolution, yes. Inconsistent? Not at all. I know plenty of people whose outrage at Gore has grown over the last four weeks. And I have tried to moderate my outrage in writing for *TNR* out of deference to my colleagues' pro-Gore sensibilities.

Exhibit 1 is more promising for your side. I wrote two pieces analyzing election voting patterns. One—for the *Sunday Times* of London—was immediately after the election, going over Voter News Service data, and articulating the two-nations thesis. One—for the *New York Times Magazine*—was two weeks later, after I saw not just the state breakdowns but the county breakdowns. I realized that the situation was more complicated than I had originally thought. I didn't throw out my previous opinion, I modified it. I reiterated my view that "you see a similarly clear geographic divide: the liberal, urban coasts with a couple of Midwestern blobs nervously framing a homogeneous, conservative heartland." I even said in the *New York Times* that "the close nature of the race, and the deeply different personalities of the two candidates, only accentuate this picture." But then I added that the closer you look, the more complicated the picture is.

In retrospect, I should have written that I had also adhered, immediately after the election, to the simpler view. But I didn't think anyone would give a damn—and I only had 900 words. I didn't think of these two pieces as contradictory—I thought of them as complementary, which is why I posted both of them simultaneously on my website, *www.andrewsullivan.com*.

It's hard enough in these polarized times to write careful, nuanced pieces, and to make sure your analysis keeps track of developments. It doesn't help when people take quotes out of context and twist them to make complicated writers look like idiots.

Andrew Sullivan
Washington, DC

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the weekly Standard

A President by Judicial Fiat

As a result of Friday's Florida Supreme Court decision, Al Gore may be sworn in as president on January 20. If he is, he will receive our best wishes upon assuming the burdens of office. We will support his policies when we think they are right for the country. We will pay proper respect to the office of the presidency. We will hope (some will pray) that Al Gore's presidency proves a success, and that it leaves the United States of America a stronger and better nation.

But some of us will not believe that Al Gore has acceded to the presidency legitimately. The action of the Florida court is not constitutionally defensible. We will therefore continue to insist that he gained office through an act of judicial usurpation. We will not "move on." Indeed, some of us will work for the next four years to correct this affront to our constitutional order. This does not mean simply, indeed it does not mean primarily, defeating Al Gore in 2004. It means defeating the understanding of the rule of law, the role of the courts, and the meaning of the Constitution embodied by this decision.

It would of course be better if this decision were reversed in the next few days. The U.S. Supreme Court may save us from its Florida brethren. If it does not, the Florida legislature, and then the U.S. Congress, may act under the Constitution and under federal law to vindicate the Constitution and the rule of law.

But the U.S. Supreme Court may fail to act, and there will then be enormous pressure from friends of the judiciary to yield to the Florida court. The assault from the law schools, the media, and all enlightened quarters on the state legislature, if it moves to act, will be massive. If our elected officials find it in them to stand up to such an assault, it will be a healthy moment for the country.

Forty-two years ago, the U.S. Supreme Court claimed in *Cooper* v. *Aaron* that "the federal judiciary is supreme in the exposition of the law of the Constitution." This is not so—nor is a state judiciary supreme in the exposition of a state constitution—though we have acted as if it were for two generations. While the judicial branch has the obligation to interpret laws in light of the Constitution, the other branches have an equal obligation to act consistently with the Constitution; and no branch is superior to any other. In practice, the role of the Supreme Court (or of state supreme courts) tends to give them, on any given issue, the last word. But the last word on any particular case cannot be the last word forever.

As always, Lincoln put it best, in his first inaugural:

> I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding in any case, upon the parties to a suit, as to the object of that suit, while they are also entitled to very high respect and consideration in all parallel cases, by all other departments of the government. And while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be over-ruled, and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time the candid citizen must confess that if the policy of the government, upon vital questions, affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties, in personal actions, the people will have ceased to be their own rulers, having, to that extent, practically resigned their government into the hands of that eminent tribunal.

Perhaps the Florida state legislature and the U.S. Congress will now rise to the occasion. But perhaps not. If not, we will have a presidency achieved by litigation and judicial fiat. The best that can be hoped for under such circumstances is that this illegitimately gained presidency will give rise to a determination on the part of the people to resume the burden and the privileges of self-government. Two generations of judicial usurpation is enough.

—*William Kristol*

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A "Constitutional Crisis"

On Friday afternoon, December 8, a 4-3 majority of the Florida Supreme Court issued a ruling that required the state to immediately implement Al Gore's scheme to "recount" his way to the presidency. The majority's opinion is unique in the annals of judicial capriciousness and overreach: an irrational and legally groundless edict that might actually alter a presidential election. Three members of the Florida court, Chief Justice Charles T. Wells and associate justices Major B. Harding and Leander J. Shaw Jr., bitterly and eloquently dissented. THE WEEKLY STANDARD *endorses their dissents, excerpted and abridged below.*

Chief Justice Charles T. Wells, dissenting:

I do not question the good faith or honorable intentions of my colleagues in the majority. However, I could not more strongly disagree with their decision to reverse the trial court and prolong this judicial process. I also believe that the majority's decision cannot withstand the scrutiny which will certainly immediately follow under the United States Constitution.

My succinct conclusion is that the majority's decision to return this case to the circuit court for a count of the under-votes from either Miami-Dade County or all counties has no foundation in the law of Florida as it existed on November 7, 2000, or at any time until the issuance of this opinion. The majority returns the case to the circuit court for this partial recount of under-votes on the basis of unknown or, at best, ambiguous standards with authority to obtain help from others, the credentials, qualifications, and objectivity of whom are totally unknown. That is but a first glance at the imponderable problems the majority creates.

Importantly to me, I have a deep and abiding concern that the prolonging of judicial process in this counting contest propels this country and this state into an unprecedented and unnecessary constitutional crisis. I have to conclude that there is a real and present likelihood that this constitutional crisis will do substantial damage to our country, our state, and to this Court as an institution. On the basis of my analysis of Florida law as it existed on November 7, 2000, I conclude that the trial court's decision can and should be affirmed.

At the outset, I note that, after an evidentiary hearing, the trial court expressly found no dishonesty, gross negligence, improper influence, coercion, or fraud in the balloting and counting processes based upon the evidence presented. I conclude this finding should curtail this Court's involvement in this election through this case and is a substantial basis for affirming the trial court. Judicial restraint in respect to elections is absolutely necessary because the health of our democracy depends on elections being decided by voters—not by judges. We must have the self-discipline not to become embroiled in political contests whenever a judicial majority subjectively concludes to do so because the majority perceives it is "the right thing to do." Elections involve the other branches of government. A lack of self-discipline in being involved in elections, especially by a court of last resort, always has the potential of leading to a crisis with the other branches of government and raises serious separation-of-powers concerns.

I find that the trial judge correctly concluded that plaintiffs were not entitled to a manual recount. I do not find any legal basis for the majority of this Court to simply cast aside the determination by the trial judge made on the proof presented at a two-day evidentiary hearing that the evidence did not support a statewide recount. To the contrary, I find the majority's decision in that regard quite extraordinary. Merely stating the cause of action under the contest statute does not entitle a party to a recount or require the court to set aside an election. More must be required. Following [plaintiffs'] logic to its conclusion would require a circuit court to order partial manual recounts upon the mere filing of a contest. This proposition plainly has no basis in law.

There is no doubt that every vote should be counted where there is a "clear indication of the intent of the voter." The problem is how a county canvassing board translates that directive to these punch cards. Should a county canvassing board count or not count a "dimpled chad" where the voter is able to successfully dislodge the chad in every other contest on that ballot? Here, the county canvassing boards disagree. Continuation of this system of county-by-county decisions regarding how a dimpled chad is counted is fraught with equal protection concerns which will eventually cause the election results in Florida to be stricken by the federal courts or Congress.

I conclude the circuit court properly looked at what the county canvassing boards have done and found that they did not abuse their discretion. Regarding Miami-Dade County, I find that the trial judge properly conclud-

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ed that the Miami-Dade Canvassing Board did not abuse its discretion in deciding to discontinue the manual recount begun on November 19, 2000. I cannot find that the Miami-Dade Board's decision that all the ballots could not be manually recounted between November 22 and November 26, 2000, to be anything but a decision based upon reality. Moreover, not to count all of the ballots if any were to be recounted would plainly be changing the rules after the election and would be unfairly discriminatory against votes in the precincts in which there was no manual recount.

I also agree with the trial judge that the Election Canvassing Commission did not abuse its discretion in refusing to accept either an amended return reflecting the results of a partial manual recount or a late amended return filed by the Palm Beach Board. I conclude that it is plain error for the majority to hold that the Commission abused its discretion in enforcing a deadline set by this Court that recounts be completed and certified by November 26, 2000. I conclude that this not only changes a rule after November 7, 2000, but it also changes a rule this Court made on November 26, 2000.

As I stated at the outset, I conclude that this contest simply must end.

Directing the trial court to conduct a manual recount of the ballots violates Article II, Section 1, Clause 2 of the United States Constitution, in that neither this Court nor the circuit court has the authority to create the standards by which it will count the under-voted ballots. The Constitution reads in pertinent part: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors." The Supreme Court has described this authority granted to the state legislatures as "plenary." The Legislature has given to the county canvassing boards—and only these boards—the authority to ascertain the intent of the voter. Clearly, in a presidential election, the Legislature has not authorized the courts of Florida to order partial recounts, either in a limited number of counties or statewide. This Court's order to do so appears to me to be in conflict with the United States Supreme Court decision.

It is plain error for the majority to hold that the Election Canvassing Commission abused its discretion in enforcing a deadline set by this Court.

Laying aside the constitutional infirmities of this Court's action today, what the majority actually creates is an overflowing basket of practical problems. Assuming the majority recognizes a need to protect the votes of Florida's presidential electors, the entire contest must be completed "at least six days before" December 18, 2000, the date the presidential electors meet to vote. Thus, under the majority's time line, all manual recounts must be completed in five days, assuming the counting begins today. In that time frame, all questionable ballots must be reviewed by the judicial officer appointed to discern the intent of the voter in a process open to the public. Fairness dictates that a provision be made for either party to object to how a particular ballot is counted. Additionally, this short time period must allow for judicial review. I respectfully submit this cannot be completed without taking Florida's presidential electors outside the safe harbor provision, creating the very real possibility of disenfranchising those nearly six million voters who were able to correctly cast their ballots on election day.

Another significant problem is that the majority returns this case to the circuit court for a recount with no standards. I do not, and neither will the trial judge, know whether to count or not count ballots on the criteria used by the canvassing boards, what those criteria are, or to do so on the basis of standards divined by Judge Sauls. A continuing problem with these manual recounts is their reliability. It only stands to reason that many times a reading of a ballot by a human will be subjective, and the intent gleaned from that ballot is only in the mind of the beholder. This subjective counting is only compounded where no standards exist or, as in this statewide contest, where there are no statewide standards for determining voter intent by the various canvassing boards, individual judges, or multiple unknown counters who will eventually count these ballots.

I must regrettably conclude that the majority ignores the magnitude of its decision. The Court fails to make provision for: (1) the qualifications of those who count; (2) what standards are used in the count—are they the same standards for all ballots statewide or a continuation of the county-by-county constitutionally suspect standards; (3) who is to observe the count; (4) how one objects to the count; (5) who is entitled to object to the count; (6) whether a person may object to a counter; (7) the possible lack of personnel to conduct the count; (8) the fatigue of the counters; and (9) the effect of the differing intra-county standards.

This Court's responsibility must be to balance the contest allegations against the rights of all Florida voters who are not involved in election contests to have their votes counted in the electoral college. To me, it is inescapable that there is no practical way for the contest to continue for the good of this country and state.

For a month, Floridians have been working on this problem. At this point, I am convinced of the following.

The local election officials, state election officials, and the courts have been attempting to resolve the issues of this election with an election code which any objective, frank analysis must conclude never contemplated this circumstance.

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Under the United States Supreme Court's analysis in *Bush* v. *Palm Beach County Canvassing Board*, there is uncertainty as to whether the Florida Legislature has even given the courts of Florida any power to resolve contests or controversies in respect to presidential elections.

There is no available remedy for the petitioners on the basis of these allegations. Quite simply, courts cannot fairly continue to proceed without jeopardizing the votes and rights of other citizens through a further count of these votes.

This case has reached the point where finality must take precedence over continued judicial process. Further judicial process will only result in confusion and disorder.

Justice Major B. Harding, dissenting, joined by Justice Leander J. Shaw Jr.:

I would affirm Judge Sauls' order. I commend him for the way that he conducted the proceedings below under extreme time constraints and pressure. Further, I believe that Judge Sauls properly concluded that there was no authority to include the Palm Beach County returns filed after the explicit deadline established by this Court. I agree with Judge Sauls that the Appellants have not carried their burden of showing that the number of legal votes rejected by the canvassing boards is sufficient to change or place in doubt the result of this statewide election. That failure of proof controls the outcome here. Moreover, as explained below, I do not believe that an adequate remedy exists under the circumstances of this case.

The majority is departing from the essential requirements of the law by providing a remedy which is impossible to achieve and which will ultimately lead to chaos.

Appellants had an obligation to show, by a preponderance of the evidence, that the outcome of the statewide election would likely be changed by the relief they sought. Appellants failed, however, to provide any meaningful statistical evidence that the outcome of the Florida election would be different if the "no-vote" in other counties had been counted; their proof that the outcome of the vote in two counties would likely change the results of the election was insufficient. It would be improper to permit Appellants to carry their burden in a statewide election by merely demonstrating that there were a sufficient number of no-votes that could have changed the returns in isolated counties.

Moreover, assuming that there may be some shortfall in counting the votes cast with punch card ballots, such a problem is only properly considered as being systemic with the punch card system itself, and any remedy would have had to be statewide. Any other remedy would disenfranchise tens of thousands of other Florida voters, as I have serious concerns that Appellants' interpretation of [Florida law] would violate other voters' rights to due process and equal protection of the law under the Fifth and Fourteenth Amendments to the United States Constitution. Such an application does not provide for a more accurate reflection of the will of the voters but, rather, allows for an unfair distortion of the statewide vote. It is patently unlawful to permit the recount of "no-votes" in a single county to determine the outcome of the November 7, 2000, election for the next President of the United States. We are a nation of laws, and we have survived and prospered as a free nation because we have adhered to the rule of law. Fairness is achieved by following the rules.

Finally, even if I were to conclude that the Appellants' allegations and evidence were sufficient to warrant relief, I do not believe that the rules permit an adequate remedy under the circumstances of this case. Clearly, the only remedy authorized by law would be a statewide recount of more than 170,000 "no-vote" ballots by December 12. Even if such a recount were possible, speed would come at the expense of accuracy, and it would be difficult to put any faith or credibility in a vote total achieved under such chaotic conditions. In order to undertake this unprecedented task, the majority has established standards for manual recounts—a step that this Court refused to take in an earlier case, presumably because there was no authority for such action and nothing in the record to guide the Court in setting such standards. The same circumstances exist in this case.

While this Court must be ever mindful of the Legislature's plenary power to appoint presidential electors, I am more concerned that the majority is departing from the essential requirements of the law by providing a remedy which is impossible to achieve and which will ultimately lead to chaos. In giving Judge Sauls the option to order a statewide recount, the majority permits a remedy which was not prayed for, which is based upon a premise for which there is no evidence, and which presents Judge Sauls with options to order entities (i.e. local canvassing boards) to conduct recounts when they have not been served, have not been named as parties, but, most importantly, have not had the opportunity to be heard. In effect, the majority is allowing the results of the statewide election to be determined by the manual recount in Miami-Dade County because a statewide recount will be impossible to accomplish. Even if by some miracle a portion of the statewide recount is completed by December 12, a partial recount is not acceptable. The uncertainty of the outcome of this election will be greater under the remedy afforded by the majority than the uncertainty that now exists. ♦

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The Florida Supreme Court (from left): Lewis, Anstead, Shaw, Wells, Harding, Pariente, and Quince

AP/Wide World Photos

Our Robed Masters

What the court did was a power grab, pure and simple. BY ROBERT N. HOCHMAN

BEFORE THIS ELECTION, if you had read the Florida election code, you might have thought it entirely reasonable, if unremarkable. It seems to divide the responsibility of counting votes among different governmental bodies. You might have thought that the county canvassing boards had the primary responsibility. That power appeared to be restrained somewhat by the secretary of state's authority to enforce a deadline for submitting results. Most important, the quintessentially political act of counting votes and certifying election results seemed to be in the hands of politically responsible officers. To be sure, you would have noticed that the Florida courts have the power to ensure that all these political officers follow the law in performing their vote-counting duties. But that would not have seemed a very prominent feature of the law.

Wrong, or so the Florida Supreme Court has just told us. In ruling in Al Gore's favor on Friday, the Florida Supreme Court has announced that Florida's election code makes a bare majority of the Florida Supreme Court the most authoritative election officers in the state. All of a sudden, Florida's election code is entirely unreasonable and quite remarkable. That's a fairly good sign that the court got it wrong.

Let us be clear about what the court has done. It has ordered a statewide manual recount of all "undervotes" not previously manually recounted, simply because the election was close. No election officer broke the law. No election officer abused his discretion. Al Gore showed that there were 9,000 "undervotes" that had not been manually recounted, and that he trails by only a few hundred votes. This, we are told, proves that election officials rejected "a number of legal votes sufficient to place in doubt the result of the election."

It's not as if these 9,000 ballots had been ignored. They were counted twice by machine and, having failed to register a vote, were treated by the canvassing board as not containing a vote for president. The court not only fails to respect this determination by duly authorized election officials, it effectively presumes it was wrong.

But the reader should rest assured that the court is not simply substituting its judgment for that of state election officials. Indeed, it turns out that the court thinks that state election officials can authoritatively determine whether ballots contain a vote for president. They just have to make that determination in the way the court (and Al Gore) want them to: by manual recount. The court simply gave Al Gore the vote gains from the too-late Palm Beach manual recount (215) and from the Dade partial manual recount (168). If anyone thought we were getting a statewide review of ballots under a reasonable and uniform standard, consider that Broward County's infamous dimple-crazy manual recount gets to stand, under this court's order, without court review. Counting by hand, then, is both necessary and entirely sufficient (no matter the standard employed) for preferential treatment under this court's rule.

The court's opinion rests solely on the view that the Florida legislature has expressed a preference for manual recounts. That is demonstrably false. First, it seems like ages ago, but we can all remember back to November 8, when we learned that Florida law provides for a mandatory recount

Robert N. Hochman, a former Supreme Court clerk, practices law in Chicago.

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when the first count shows a margin of victory of less than 0.5 percent. That recount, however, is by machine. Florida law expressly provides for a manual recount only in the protest provision. And in that statute, a county canvassing board is never required to do a manual recount. The only place the Florida Supreme Court can find a preference for manual recounts is in its own (and Al Gore's) head.

The court's naked preference for manual recounts has led it to do precisely what the Dade County canvassing board decided not to do: manually recount its ballots. The court emphasizes that the contest provision, which it reads to authorize its recount, is distinct from the protest provision, which permits the county canvassing board to manually recount. That's true, but it reveals a stunning sense of judicial imperialism: It is the court that has the final say not just on the lawfulness of how votes were counted (a traditionally judicial function), but also on the manner in which votes are to be counted (a traditionally political function).

The sudden ascent of the Florida courts to the role of vote-counters may come as a shock to those who have followed this controversy over the past month. Didn't this court champion the role of the county canvassing boards in counting ballots in its Thanksgiving-spoiling opinion? The canvassing boards were so important then that the court magically transformed November 14 into November 26. Now we learn that the county boards were really just court aides, doing the court's work, until the court decided it could formally start giving marching orders to all of Florida's election officials.

Like field generals, the four members of the court's majority will now watch as its minions scramble to carry out its orders. Like grand statesmen, they will listen as many praise their zealous pursuit of the "will of the people." Generals and statesmen, perhaps. But let no one pretend that they have acted as judges. ♦

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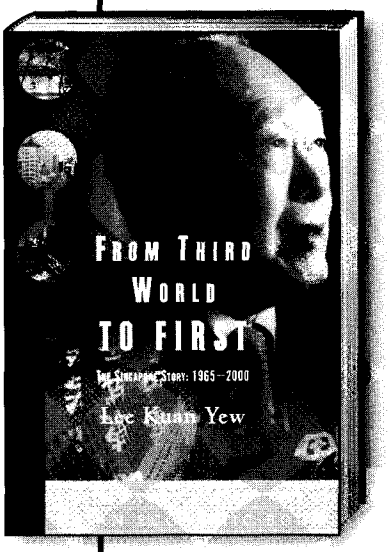

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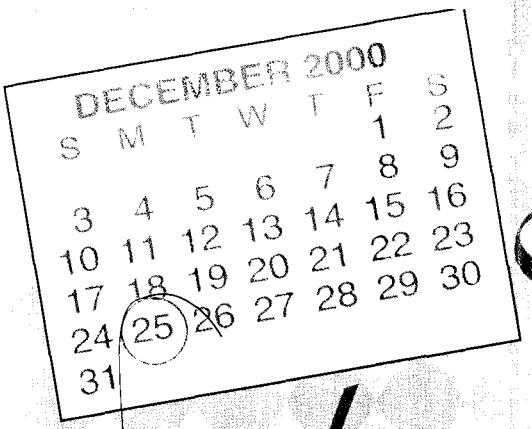

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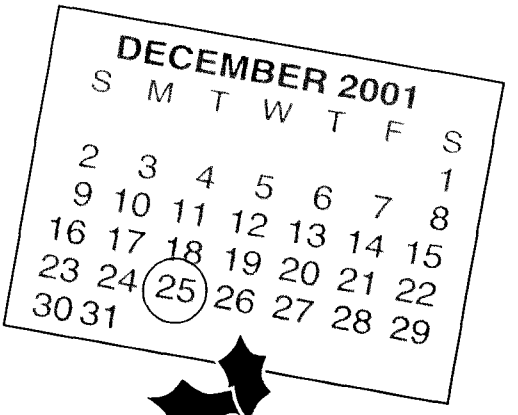

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Travesty in Tallahassee

How wrong was the Florida supreme court? Let us count the ways. BY NELSON LUND

NO DISINTERESTED OBSERVER can believe that any known method of counting the six million votes cast in Florida would provide certainty. The only sane approach is to count the votes according to the laws in place on November 7, and accept that result. But that's the one thing Florida's supreme court will not tolerate.

That court has now accomplished the unthinkable by topping its own previous post-election rewrite of the state's election law. The first time around, the justices replaced Florida's statute with new rules they thought were better. This time, they replaced the statute with *nonrules* that they believe are even better than rules. To make the farce complete, they've managed to rig the way these nonrules operate.

The opinion issued by the Florida court on Friday contains many mysteries, but it makes a few things clear. What we know for sure is that the Leon County Circuit Court has been ordered to begin an immediate review of about 9,000 ballots from Miami-Dade County, looking for "legal votes" that the counting machines missed. We also know that the circuit court has been ordered to make sure that Gore is credited with 215 (or maybe 176, the justices are not sure) additional votes from Palm Beach County, and that Gore gets 168 additional votes from Miami-Dade. The circuit court is apparently also expected to order some kind of statewide recount, or perhaps a recount only in counties that used punch-card ballots. But maybe not, since the circuit court has only been authorized rather than ordered to do whatever it is that the supreme court has in mind.

The theory behind all of this seems to be a notion that a hunt for previously undiscovered "legal votes" must be conducted, and that every new vote that is "found" must be added to the totals recorded by the counting machines. Whatever number turns up when time runs out will apparently be considered "better" than the number arrived at under the rules in place on November 7.

This theory has at least four fatal flaws, apart from the serious practical difficulties that the circuit court will have in complying with its overlord's instructions.

First, the supreme court's decision is based on an untenable supposed "interpretation" of the Florida election statute. Two dissenting opinions, representing the views of three of the supreme court's seven justices, explore some of the legal defects in the reasoning, which are too numerous to summarize here.

Second, Florida's supreme court did not even pretend to know what constitutes a "legal vote." The only guidance it provides is the Delphic statement that a legal vote is one containing a "clear indication of the intent of the voter." But that means almost nothing without a rule for applying this standard to the now-famous varieties of chad.

The supreme court's nonrule about counting chad might not be a fatal defect if the circuit court were authorized to establish a rule that at least provided some consistency in whatever recount is conducted. But that is apparently precluded by the supreme court's order adopting the additions to Gore's total from the partial recounts in Palm Beach and Miami-Dade. Those counties used different and *inconsistent* standards in evaluating ballots, and the supreme court has endorsed them *both*.

Third, the supreme court has systematically rigged the recount. The trick lies in the court's decision to limit the manual recounts to ballots that the machines did not count for any presidential candidate. Under almost any rule for identifying which varieties of chad manifest an intent to vote, some fraction of these "undervote" ballots will be reclassified as votes. Whatever rule is chosen, however, should also be applied to ballots containing both a machine readable hole for one candidate and an indication of "an intent to vote" for another candidate. These ballots, which the machine counted as votes for one candidate, should be reclassified as "overvotes" and therefore deducted from that candidate's total.

Palm Beach actually used this approach, in which undervotes that are changed to votes are at least partially offset by votes changed to overvotes. This is one reason why Gore picked up fewer than 200 votes from the recount in heavily Democratic Palm Beach, much to everyone's surprise. The Florida justices, however, have made sure that won't happen again because they only ordered undervotes to be manually recounted. How convenient.

Fourth, Florida's supreme court ignored the decision of the U.S. Supreme Court *and* it simply ignored the counterclaims that Gov. Bush has filed against the recounts in several counties. But pretending that they don't exist doesn't make it so.

Whatever the Florida courts do next, some combination of the Florida legislature, the U.S. Congress, and the U.S. Supreme Court may be able to salvage the lawful result of this election. But if those who have an interest in claiming Gore "actually" won the election get even one judicially approved set of numbers for their quiver of poison arrows, they'll know whom to thank. ♦

Nelson Lund is a professor at George Mason University School of Law.

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Goodbye Friends, Hello Foes

The 107th Senate promises to be absolutely awful.

BY STEPHEN MOORE

FORGET ABOUT THE PRESIDENCY for a minute. Has anyone looked at what the elections have done to the world's most deliberative body? They've turned it into a chamber of horrors.

For fiscal conservatives, the outcome of the Senate elections could hardly have been worse. Within the past year five of the most reliable votes and behind-the-scenes agitators for conservative and pro-growth policies have left. The first sign that the 107th Senate would be a lot worse than the 106th came when Connie Mack of Florida (who should be vice president-elect today) announced his retirement. With the tragic death of Senator Paul Coverdell of Georgia, we lost another stalwart. (Why didn't Republicans run his widow for the seat?) And then on Election Day, Republicans lost Spence Abraham of Michigan, John Ashcroft of Missouri, Rod Grams of Minnesota, and William Roth of Delaware. These are gigantic losses to the conservative movement—each and every one of them for different reasons.

The narrow victory by Maria Cantwell in Washington state pulls the Senate into a 50-50 tie, with the vice president, presumably Dick Cheney, giving the GOP the majority.

Meanwhile, the new senators are a dreadful lot. Hillary Clinton, who will represent New York, will undoubtedly be a persistent voice for unreason and governmental expansionism. Gazillionaire Jon Corzine campaigned on federalizing education, health care, and pretty much all of parenthood. Debbie Stabenow has for years been an appendage of the militantly left-wing Michigan Education Association. Among governors, Tom Carper of Delaware was one of the biggest tax hikers in a decade (the Cato Institute gave him a D in its fiscal report card). And the widow of Missouri's Mel Carnahan promises to vote however Tom Daschle tells her to. Mark Dayton of Minnesota, heir to a family fortune, is beset with liberal guilt. 2006 can't get here soon enough!

There will be fewer moderates inside the Democratic caucus of the Senate to retard the party's looney left. Three voices of reason on Social Security reform—Bob Kerrey of Nebraska (he should be the head of a Bush Health and Human Services Department or Social Security Administration), Pat Moynihan of New York, and Chuck Robb of Virginia—are gone to retirement or defeat.

So we are left with a razor-thin Republican majority in the Senate with both parties having lurched to the left. The Republican majority leader, Trent Lott of Mississippi, says that the bipartisan gridlock is "put behind us now." His interpretation of the election is that the voters want a flurry of legislation. "No matter who becomes president, we're going to have to get things done. We may get more done than anybody would have believed possible." We can only pray that he is wrong about that. After all, four years of political gridlock has given America one of the greatest eras of wealth creation in world history.

What exactly is this Senate likely

Stephen Moore is president of the Club for Growth and a senior fellow at the Cato Institute.

Illustration by Thomas Fluharty

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to get done? The Senate didn't approve much of value with Abraham, Ashcroft, Coverdell, Grams, Mack, and Roth still around. Who knows what kind of policy mush might be delivered without them? Not even a defensive posture against legislation such as universal health care, a patients' bill of rights, and minimum wage increases, will be likely now that there are less than 40 half-reliable conservative votes.

Now for a quick word of praise for each of the Senate casualties in this election year. First, Ashcroft, Coverdell, and Mack were quite simply the conscience of Senate conservatives. They are irreplaceable. Ashcroft's loss is particularly heartbreaking. He would have almost certainly defeated the ultra-tax-and-spend liberal Mel Carnahan had it not been for the tragic plane crash that took Carnahan's life. And Ashcroft almost certainly would have won if the election had been even a week later. (Please, John, run again in 2002.) Grams was the most persuasive voice in the Senate for Social Security choice and had the most ambitious plan for private accounts.

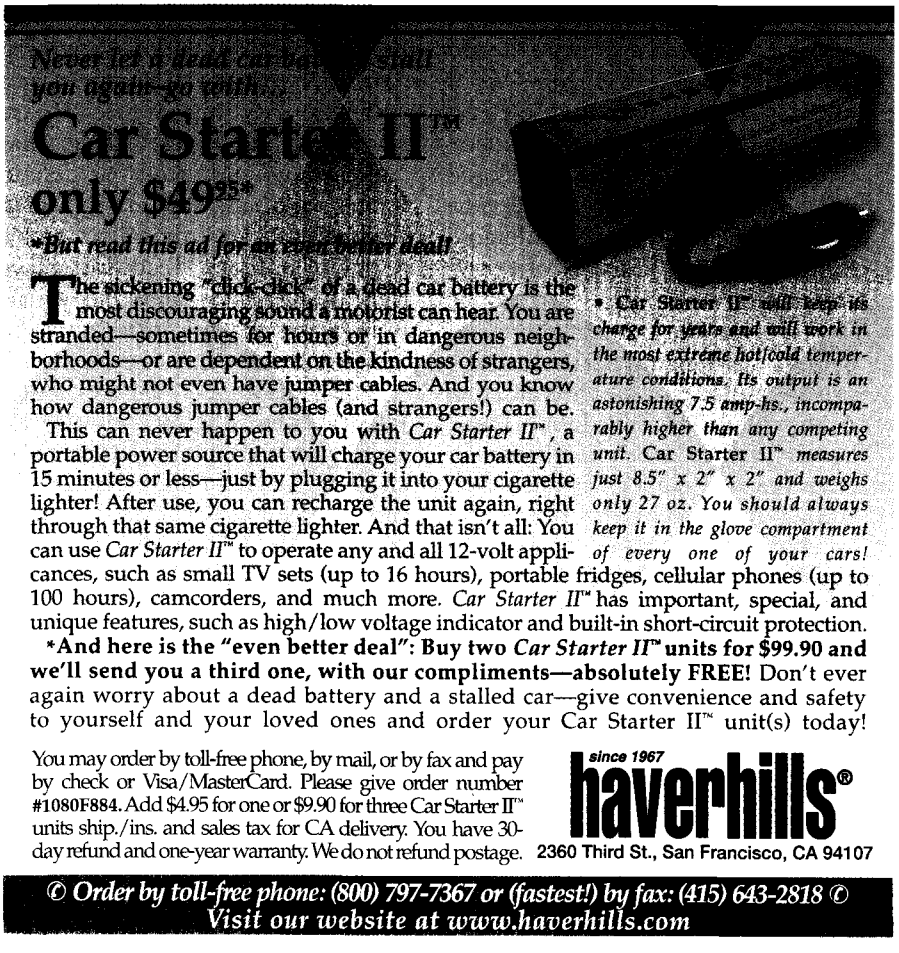
Spence Abraham was a supply-side superstar. He was a champion of tax cuts, free trade, and a more liberal and humane immigration policy. Spence made political misjudgments as a freshman senator. He played too much inside baseball, cozying up to the GOP leadership, rather than tending to his constituents. For better or worse, as a first-term senator, one has to be Senator Pothole. And Spence wasn't. But that's because he had an abiding interest in advancing policy goals. Few one-term senators have left such a glowing legacy.

The business community should be ashamed of itself for allowing Spence Abraham to go down. Ditto for Silicon Valley. The high-tech community seldom had a better friend in Washington. He was voted, by one magazine, the best friend of high tech in the entire Senate. Time and again, he stuck his neck out for big business on issues like free trade, immigration, and tort reform, risking unpopularity in Michigan, home of the United Auto Workers. The unions, the anti-immigrant groups, the trial lawyers, the environmental wackos, and the feminists spent millions to defeat Abraham. The high-tech community should have raised whatever it took—$10, $20, $50 million—to defend him. Where was John Doerr? Where was Tech-Net? At one point earlier this year Tech-Net had planned to hold a fund-raiser for Debbie Stabenow—Abraham's left-wing opponent! Well, you know what? Silicon Valley deserves Debbie Stabenow. They'll soon learn how responsive she is to business interests.

Finally, there is William Roth. Roth was the godfather of the Reagan-Kemp-Roth tax cuts. Quite simply, Bill Roth's tax bill helped launch this unprecedented 18-year economic expansion. You just want to drive up to Delaware and start smacking the voters on the side of the head and say, "How could you de-elect this guy? What were you thinking?"

Roth also gave us one of the great financial and tax innovations of the past decade: the Roth IRA. For nearly two decades, he was dogged in his pursuit and defense of IRAs—and tens of millions of Americans have him to thank for the consequent huge increases in their financial wealth. It is to be hoped that, later this month, the lame duck Congress will have the sense to approve Roth's pending tax cut bill to vastly expand IRAs and 401(k) plans. That would be a parting gift worthy of this distinguished gentleman. And it would make a lot of working class Americans richer to boot.

The voters have moved the Senate sharply to the left. We've traded down. As for Abraham, Ashcroft, Grams, Mack, and Roth, I miss them already. ♦



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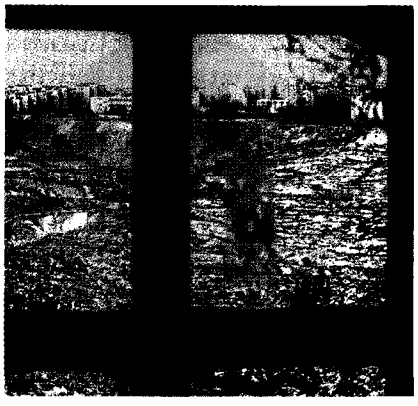
The PLO vs. the Christians

First children, now Christians are to be sacrificed in Arafat's war. BY TOM ROSE



AP / Wide World Photos

Gilo, as seen from a Beit Jalla window

Jerusalem

ARAFAT'S WAR against Israel has shattered nearly as many old certainties as lives. One of the most seemingly solid of the certainties was that no one could attack Israel's capital and live to tell the tale. Yet what ten weeks ago was both unthinkable and intolerable has now become a matter of everyday routine.

Just before dusk each night, members of the Tanzim, Yasser Arafat's private militia, invade the Christian Arab village of Beit Jalla. These heavily armed Muslim militiamen enter the once quiet Palestinian-controlled town from the south and quickly make their way to its northern edge. There, they commandeer their way into homes, almost all of them owned by Christian families, that offer good lines of sight into the living rooms and kitchens of the Jewish neighborhood of Gilo, on the southern edge of Jerusalem, just across a small valley from Beit Jalla.

Once darkness descends, sometimes even before, the shooting starts. Thousands of rounds of heavy machine-gun fire pour into houses on Gilo's picturesque Ha'anafa Street. It takes Israeli army sharpshooters a few minutes to calibrate their sophisticated tracing equipment to home in on the exact source of the shooting and fire back to prevent any further "collateral damage," as the Israeli army calls it. The battle rages inconclusively until the militiamen run out of ammunition. Then they pack up and go home.

To date, prime minister Ehud Barak's strategy for dealing with Arafat's war has prevented the Israel Defense Forces from doing anything more than respond to specific acts of violence. Heeding White House warnings, Barak maintains that "unleashing" the army to defend Israeli civilians could ignite a regional war. Yet ironically, Barak's policy of military "restraint" plays right into Arafat's hands and actually increases the risk of igniting the very war Barak wants to prevent.

The Palestinians' choice of Beit Jalla as the staging ground for attacks on civilians in Jerusalem is anything but random. It is part of a carefully laid and brilliantly executed Palestine Liberation Organization strategy to get the international community, and in particular the United States, to intervene on the side of the Palestinians and impose the "solution" Arafat failed to secure at the negotiating table.

Arafat's new plan is to get the international community to force Israel to withdraw to its pre-1967 lines without the Palestinians' making concessions of their own or formally ending their war against the Jewish state. Arafat knows that in order to persuade the international community to deploy a military force that would impose this solution, he must win sympathy. To this end, he was first willing to provoke the killing of hundreds of his own people, the younger the better. The Palestinian Authority, which Arafat controls and the United States funds, offered up to $2,000 to families who "sacrificed" a child in what the Palestinians are calling the "Al-Aksa Intifada," the war for Jerusalem. Palestinian media and high ranking officials encouraged children to attack Israeli positions far from Palestinian population centers with rocks, guns, and firebombs.

The purpose of these attacks was never to overrun the Israeli positions, only to provoke Israeli soldiers to kill Palestinian children for the benefit of television viewers. By offering up his own people, Arafat was able to cancel all the good will that Barak's unprecedented Camp David concessions had generated for Israel just weeks before and return Israel to its familiar role of international villain. Throughout the crisis, Arafat has displayed an uncanny ability to transform Israel's democratic institutions into Palestinian assets. In the uprising's early days, his scheme of provoking Israeli soldiers to kill Palestinian children proved spectacularly effective at whipping the Islamic world into a frenzy against Israel. While it also went a long way toward convincing the West that Arafat may need international protection, it did not close the deal. What would?

What if Arafat could market the message that Israel was "killing Christians" as effectively as he had sold the world the notion that it was "killing children"? Surely then Arafat's international protection force would be all but assured.

Thus, every night in Beit Jalla, Arafat orchestrates attempts to induce Israeli soldiers to kill Christians. As obvious as the ploy is to observers here, the yawning question Israelis are asking is, Why on earth

Tom Rose is publisher of the Jerusalem Post.

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does Prime Minister Barak allow himself and his country to be so cynically and dangerously exposed to fulfilling Palestinian objectives?

Almost everyone here agrees that the Israeli army could permanently end the firing on Gilo and the return fire into Beit Jalla in a matter of hours, if not minutes, and perhaps without a single casualty, Christian or Jewish. It could simply close the access roads from the south and deploy paratroopers to secure the streets used by Palestinian gunmen—in short, retake the town. This is no more than any nation on earth would long ago have done to stop a military assault on its capital city. And it would not only free Israeli citizens from the terror of war; it would also liberate 5,000 Christian Arabs now hostage to Arafat's machinations.

Rather than precipitating a greater conflict, the retaking of Beit Jalla might be the single most stabilizing action Israel could take, depriving Arafat of the means of provoking a massacre of Christians, while at the same time demonstrating that Israel's patience has its limits. Barak, unable to respond either to Arafat's assault in Israel's heartland or to Hezbollah's provocations on Israel's northern border, leads a gun-shy, lame-duck government. Some of its members are saying publicly that the only way the prime minister could muster the strength to take this step would be if he were subjected to coordinated political pressure from concerned Christians around the world, particularly in the United States.

Because Israel's retaking Beit Jalla would win support from more than 90 percent of Israelis, not to mention the Christians of Beit Jalla, that step would be not only the right, responsible, and moral thing to do, but also the political shot in the arm the beleaguered prime minister so desperately needs. Israel has long been forced to act under pressure from Islamic radicals. Perhaps it is time that Christians spoke up for themselves. ♦

Dead Wrong, but Still Kicking

The physician-assisted suicide movement loses again. BY WESLEY J. SMITH

MAINE VOTERS' REJECTION on November 7 of an initiative to legalize physician-assisted suicide was only the latest in a string of defeats for the American euthanasia movement. Granted, the margin was narrow—51.5 percent to 48.5 percent. And with the Netherlands finally in the process of formally legalizing assisted suicide, no one should infer that this tenacious international movement is dead. Still, its advocates in this country have failed to move the ball since 1994, when Oregon voters passed a legalization initiative. The latest setback should spur the media to give less coverage to killing as "medical treatment" and more to the underreported subject of truly compassionate assistance to the dying, such as pain control, symptom management, and hospice care.

If the assisted-suicide movement was rebuffed in Maine, it was not for lack of investment in the campaign. Euthanasia activists from around the nation had carefully selected Maine as the most promising site for a breakthrough. "Maine is a small state with a small media market, and proponents believed that they could carefully control the message," explains Rita Marker, executive director of the International Anti-Euthanasia Task Force. "More importantly, some of the most vulnerable groups who oppose the assisted-suicide agenda nationally—disability rights activists, minorities, advocates for the poor—are not as numerous in Maine as they are elsewhere in the country, and thus assisted-suicide activists had substantial reasons to be optimistic about their chances of prevailing."

The practice in Maine of allowing an initiative's proponents to determine the wording that appears on the ballot also favored the measure. Euthanasia activists couched Question 1 in soothing language: "Should a terminally ill adult who is of sound mind be allowed to ask for and receive a doctor's help to die?" And to mobilize support for it, they mounted a national full-court press. Euthanasia organizations from all over the country urged their members to donate time and money to the campaign, with much success. More than 90 percent of the financing for the "Yes on Question 1" campaign came from outside Maine. Many of the nation's best-known assisted-suicide proponents—including Oregon governor John Kitzhaber—strove to persuade Maine voters to make it legal for doctors to write lethal prescriptions.

Initially, public support for the measure was high—70 percent, according to the *Bangor Daily News* of February 17, 2000. But as the campaign progressed and voters considered assisted suicide in the context of HMO cost-cutting, the potential for abuse and coercion, and the problems reported in Oregon despite the secrecy surrounding the practice there, public support steadily waned. When the final tally was made, the initiative lost by almost 20,000 votes.

The same pattern of early support for assisted-suicide initiatives, dwindling to eventual defeat at the polls,

Wesley J. Smith, a lawyer, is the author of Culture of Death: The Assault on Medical Ethics in America, *due out next month from Encounter Books.*

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occurred in Washington state (1991), California (1992), and Michigan (1998). Even in Oregon, where the initiative passed, support shrank from nearly 70 percent at the beginning of the campaign to just 51 percent in the final tally.

The euthanasia movement, moreover, has also been stymied in the courts and legislatures. In 1997, its advocates failed to persuade the U.S. Supreme Court to issue an assisted-suicide *Roe* v. *Wade*. The vote in *Washington* v. *Glucksberg* was unanimous, a rare achievement for our often divided high court. Only a few months later, the Florida Supreme Court refused to rule that assisted suicide was a right under the privacy guarantee in the Florida Constitution.

And in 1999, a court in Michigan sentenced euthanasia's most notorious practitioner, Jack "Dr. Death" Kevorkian, to 10 to 25 years in prison for the murder of Thomas Youk. Thus ended a macabre career that had helped eliminate some 130 people and made kidneys removed from one disabled victim available to the public on a "first come, first served" basis. Kevorkian had outworn the patience of law enforcement by arrogantly providing a videotape of his crime for airing on the program *60 Minutes*.

As for the legislative arena, not one of the many euthanasia bills introduced at the state level has had a realistic chance of passage. A robust coalition came together to fight these bills. In addition to the constituencies mentioned by Rita Marker, this alliance includes hospice professionals, religious organizations, pro-lifers, and medical associations, all of them willing to set aside their differences on other controversial issues in order to unite against the proposition that doctors should have license to kill their patients.

The only prospect euthanasia advocates have for gains in the immediate future is in Alaska, where a lawyer for the misnamed Compassion in Dying Federation has sued under the privacy guarantee of the state constitution to overturn the state ban on assisted suicide. The suit failed in the trial court and was recently argued before the Alaska Supreme Court, where the justices noted the Florida high court's refusal to legislate from the bench. The Alaska decision is expected next year.

Whatever happens in Alaska, assisted suicide won't soon be widely legalized in the United States. Thus, the time has come to look beyond a movement that actively harms the dying and disabled people it purports to help. Not only does it disparage the value of their lives, but it diverts media and popular attention from all that medicine can do to make people's dying days worth living.

It is high time that the issue of end-of-life care be given serious and concentrated consideration. For example, it is a national scandal that only 29 percent of Americans who died in 1999 received hospice services, and those who did often did so for only weeks or days. By contrast, in England the figure is 65 percent, and most hospice patients receive care for many months. For 30 years, the British have been educating the public about care for the dying, making hospice a household word. Nor do they place policy impediments between dying patients and hospice care—as we do in the United States, where patients are required to refuse all further curative treatment in order to receive hospice relief. According to Dame Cecily Saunders, the creator of the modern hospice movement, this irrational American rule makes patients, families, and physicians far less likely to turn to a hospice, which is seen as the end of all hope.

In an era when the media are addicted to scandal, assisted suicide makes for juicier copy than hospice care and pain control. But the stalling of the euthanasia movement can and should change that. The big story should be the challenge of creating a medical environment in which no American dies alone or in pain. ♦

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The Gangsta as Nobel Nominee

A Crip and his credulous friends smooth over a life of murder and mayhem. BY DEBRA J. SAUNDERS

AP / Wide World Photos

Stanley "Tookie" Williams with Winnie Mandela, San Quentin prison

BEING A QUADRUPLE MURDERER who has been nominated for the Nobel Peace Prize means never having to say you're sorry to your victims' families. At least that's what some journalists and one particular Swiss politician seem to believe.

Ask Stanley "Tookie" Williams, the founder of the original Crips gang in Los Angeles, convicted killer, and Nobel nominee. During a 1979 robbery, he shot a teenaged 7-Eleven clerk named Alvin Owens twice in the head, after the unarmed Owens had obediently laid down on the floor. Williams and his accomplices made off with $120. Later, according to court testimony, he clowned around in front of friends imitating Owens's death gurgle. A month later, he and his shotgun stormed into a motel where he killed Thsai-Shai Yang, Yen-I Yang, and Yee Chen Lin. Robert Yang heard the shots, ran to the front room, and found his father, mother, and sister mortally wounded. In 1981, a jury sentenced Williams to death.

Mario Fehr, the Swiss member of parliament who recently nominated Williams for the Nobel Prize, would rather not dwell on the past. "If he really has killed these four people," Fehr said in a recent phone interview, "that is something I do not like. But I mean, he has changed his life totally after being in prison for several years. This nomination is for his work in prison."

Tookie has kept busy while on death row. With the help of activist-journalist Barbara Becnel, he has written several books that warn children away from gangs—to atone for his role in co-founding the Crips. (In 1979, the other Crips founder, Raymond Lee Washington, was killed by a member of a rival gang.) Tookie's latest book, *Life in Prison*, has been honored by the American Library Association, while earlier books of his were selected for a 1996 panel on youth violence sponsored by the Congressional Black Caucus Foundation. "Do not follow in my footsteps," he laudably warns young people on his website.

This missionary work has earned Tookie fawning coverage. Stories on the Nobel nomination, for example, frequently feature high praise from Fehr and hosannas from Becnel who has said her pet cause was "wide-eyed like a child and really excited" by the nomination. Oh, and humbled too, apparently. In 1993, the *Los Angeles Times* printed an interview with Williams conducted by Becnel, in which the activist noted, "Williams has earned his 'props'—his proper respect—because he has taken his years in prison like a man, not snitching on or complaining to anyone." In prison, Williams told Becnel, he was studying "prison-economics, politics, black history, math, English, philosophy, psychology. And what I've learned has taught me to appeal to logic." Appalled, then deputy attorney general Joan Comparet wrote a letter to the editor, saying she was "shocked that nowhere in the article does Becnel mention the historical fact that Stanley Williams is on death row because he murdered four people in 1979."

The details of Tookie's crimes are commonly omitted from news profiles. A 1996 *Los Angeles Times* story gushed that Williams "is adamant that his literary effort has nothing to do with the appeal of his case in federal court, a normal path for capital offenses. In fact, he refuses to discuss his case at all." But there is always room for kind words from Tookie's friends. Former gang moll Winnie Mandela came to San Quentin's death row in 1999 to visit Williams and

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said, according to AP writer Kim Curtis, "What I find most fascinating is, he seems to have completely converted. It's a good message for our children throughout the world . . . that you can reform." In another story, Curtis wrote how Tookie's "eyes soften when he talks about his work with children."

There's one big item many journalists seem to have missed—that Tookie's reformation lacks remorse for the spilled blood of his four victims. On his website, there is something called "The Apology," but it's an apology for starting the Crips, not for killing four strangers. When he started the gang, Williams writes, "I never imagined Crips membership would one day spread throughout California, would spread to much of the rest of the nation and to cities in South Africa, where Crips copycat gangs have formed. I also didn't expect the Crips to end up ruining the lives of so many young people, especially black men who have hurt other black men."

And: "So today I apologize to you all—the children of America and South Africa—who must cope every day with dangerous street gangs." No apologies for the family of the white boy he shot in the head. No apology for the Asian family he destroyed. (According to a California Supreme Court ruling, Williams boasted of killing "a large number of Orientals.") This lack of true remorse has of course not slowed down Tookie's promoters. An angry Susan Fisher of the Doris Tate Crime Victims Bureau observes that, "when someone has committed a really horrible crime, [and] they do something while they're in prison that is a good thing, instead of an evil thing, . . . everyone wants to be so thrilled by that and act like that is so special, as if it somehow negates what they've done in the past."

Robert Martin, the former assistant district attorney who prosecuted Williams, notes that "the first step that you take for redemption . . . is to face the factual situation that you did this, . . . and then take the next step which is to show that remorse and heartfelt feeling toward one family he completely ruined and the family of Alvin Owens."

Unfortunately, Williams can't say he is sorry because he has yet to admit that he killed Owens and the Yangs. During his trial, Tookie employed what prosecutors call "the alibi defense," producing a girlfriend who said she was with him the night of the 7-Eleven killing, and a stepfather who saw him in a bar parking lot before the motel slaughter. But these witnesses weren't enough to counter other witnesses and physical evidence. As Martin explained, Tookie thought forensics experts couldn't link shotgun shells to a particular weapon.

Yet, Tookie fights on. For the media, he styles himself an intellectual inmate. Last week he told the *New York Times*, "One's existence is really determined by one's mental train of thought." On the legal front, however, his attorneys have found experts who will testify the defendant was brain damaged *either* during the trial—and hence was unable to defend himself—*or* at the times when he killed those people, depending on the expert. U.S. District Judge Stephen V. Wilson explained, "Petitioner claims his constitutional rights were violated because he was tried while incompetent. In addition, petitioner claims his due process rights were violated when his trial attorney failed to request a competency hearing and the trial court failed to *sua sponte* conduct a competency hearing." Or as Martin quipped, "He's written the books, but he's brain damaged."

One psychiatrist told the court Williams "lacked the mental faculties to assist counsel." This same doctor concluded he "did not premeditate, deliberate, and meaningfully and maturely reflect upon the gravity of the acts at the time of the crimes for which he was charged." Another said that he may have understood how serious the trial was, but that his ability to assist his lawyer was nonetheless impaired. A neuropsychiatrist concluded that "organic brain damage" made it likely that Williams could not assist in his defense. Two psychiatrists—to their credit—figured that the crimes proved that Williams was capable of premeditation, and hence could not have been mentally impaired.

His defenders, however, remain unfazed. When I asked Becnel to explain his brain damage, she hung up on me. The fact remains that she is publicizing the moral and intellectual achievements of a convicted murderer whose lawyers are arguing that he is brain damaged.

Unsurprisingly, law enforcement officials are not convinced that Tookie's reformation is for real. In fact, Williams has before convinced thug-huggers that he has gone straight, only to be found far from the path of wisdom. In a superb 1989 story, *Los Angeles Times* writer Dan Morain reported that in the mid-70s Williams went, as a skeptical deputy put it, "semi-legit" and had worked as a counselor urging kids to leave gangs. But, the deputy explained, PCP had a bad effect on Williams, who lost his youth counseling job when he was seen running naked down the street screaming.

During his murder trial, Williams was behaving in a way that led one psychiatrist to assert he was "unaware of the proceedings at the time." How odd then that, as a fellow inmate told authorities, the "unaware" Williams was at the same time scheming to break out of jail. The complex plan called for Williams to disarm the driver of the bus that ferried inmates between jail and court, and kill an inmate who was to testify against him. In 1989, Tookie was again telling the world that he had no continuing role in the Crips. But when a fellow inmate stabbed him, officials determined that the incident arose from an in-gang power struggle.

San Quentin spokesman Vernell Crittendon reports, "We have received information as recent as June 2000 from other inmates in other prisons that he is the leader of the Blue Note Crips," a prison branch of the Los Angeles gang. What about Tookie's denials? Crittendon responds, "Find me a gang leader who says he's a gang leader." ♦

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Revel or Rival in Defeat

So G.W. "won." So Al "lost." But---

He took me aside and commenced. "Before George W. makes his maiden speech at his inaugural, he should think of Al. I don't think today's Republican leadership is as smart or original as when the people elected me President."

"It makes sense to me, Mr. President," I said.

"There's never been a country on earth that had a bigger heart for a good loser. Change is inevitable. But that remains the same," Mr. Lincoln told me.

"What do you think, Sir?"

"Were I George W., I would get hold of Al Gore. I would not take 'no' for an answer. Today's enemies are tomorrow's friends."

"I begin to see, Mr. Lincoln," said I.

"Much sooner than later, I would do what no one else has ever done. It sets a precedent. There's nothing wrong with it that I can see," the President continued.

"But what specifically?" I wondered.

"Tell or ask Al, in a way that it makes it difficult to refuse this."

"What?" I was anxious to know.

"Include Al in George W.'s transition steps. I'd suggest to George W., mend, soothe, pacify, approach. Turn to an active or possible opponent at the beginning before any infection spreads, especially if there's a chance of that," Mr. Lincoln suggested. "One more thing, if Al is included and becomes a participant, then if anything goes wrong, Al was included."

"What if Al refuses?"

"Make it difficult for him to do so. Don't let George W. take 'no' for an answer. Go public. Sew up the nation's wounds. I tried to, Lord knows," continued Mr. Lincoln.

"Now, I see," I said. "Does it sound too slick, manipulative, sneaky?" I wondered.

"Who can say?" Mr. Lincoln responded. "It's a new century, new ideas. Big risks for big goals. My Party concerns me. The Republicans too often find more ways not to do it, as they'll ever find some ways to do it. Build bridges to others. Don't let a raging river separate you."

"I get it now, Sir."

"George W. grasps Al's hand. He makes friends. Don't ever revel in a rival's defeat. Friendship was never born an only child. It was born a twin. Let's hope George W.'s first step as President is forward and in the right direction," The martyred President prayerfully concluded.

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An Emerging Democratic Majority?

The information age winners are trending Democratic.

By David Brooks

There are many ways to analyze the results of the 2000 election, but my favorite begins like a James Michener novel with the ice age. When the temperature dropped, large quantities of ocean water were locked up in the polar ice caps, causing the sea level to drop by 200 feet. This exposed soft, sandy material around America's shoreline. Rivers like the Susquehanna, the Delaware, and the Hudson carved trenches through this sandy material, which turned into bays and inlets when the ice caps melted and the water returned. Human beings turned these bays and inlets into ports. They became centers of commerce, immigration, and cosmopolitan culture. These ports, from Boston down to Norfolk, all went for Al Gore in the 2000 election. The South, which has fewer inlets and bays, and hence became a more rural region, went for George W. Bush.

During the ice age, glaciers swept over the northern part of what is now the United States, scraping off fertile soil and leaving behind boulders, sand, and gravel. This made large-scale farming difficult in what became the northern states of Wisconsin, Michigan, and New York, which went for Gore. Meanwhile, the soil that was pushed in front of the glaciers was picked up and then deposited by the wind, creating a great, flat, fertile belt across the Midwest and West—in Iowa, Kansas, Nebraska, and so on. The great fertile plains went for Bush.

The glaciers also wiped out the pre-glacial drainage patterns in the North, and left behind thousands of lakes, the Great Lakes foremost among them. These waterways now serve as trade routes, and key areas around the Great Lakes went for Gore: Illinois, Michigan, northern Indiana, northern Ohio, western Pennsylvania. The Great Lakes form part of the great inland waterway with the Mississippi River. Most of the people who live along the Mississippi—in western Arkansas, eastern Mississippi, western Missouri, eastern Iowa, and western Wisconsin—voted for Gore.

Basically, the glaciers made some regions ripe for commerce and dense population centers, and some regions ripe for agriculture and small towns. The former went for Gore, the latter went for Bush. So the reason the Republicans don't want to do anything about global warming is that they are hoping the polar ice caps will melt and the sea level will rise. That will wipe out America's coastal regions, and with them the political base of the Democratic party.

Okay, now I'm pushing this analysis too far. But the ice age theory does point to one conclusion that is not far-fetched. The Republicans have a geography problem. They are getting stronger and stronger in the center of the country, but the Democrats are getting stronger and stronger on the coasts, leading to the present near-perfect political balance. But it also means that Republicans will have trouble actually governing the country. As my colleague Richard Starr points out, it is a lot easier to control Appalachia from the coasts than it is to control the coasts from Appalachia. The media, finance, trade, government, technology, and culture all have their headquarters on the coasts.

Moreover, contrary to all the political science talk of dealignment or realignment, each party is getting more dominant in its home base. The 12 states where Al Gore got a higher percentage of the vote than Clinton did four years ago are California, Connecticut, Delaware, Florida, Illinois, Kansas, Maryland, Nevada, New Jersey, New Mexico, Pennsylvania, and Rhode Island. The 12 states where Bush had his biggest gains over Bob Dole's performance four years ago are Arkansas, Idaho, Kentucky, Louisiana, Maine, Montana, North Dakota, Oklahoma,

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South Dakota, Utah, West Virginia, and Wyoming.

If you were a party leader, which set of states would you rather have trending in your direction, the Democratic list or the Republican list? And which states do you think carry the most cultural weight, Democratic California, Illinois, New Jersey, Florida, and Pennsylvania? Or Republican-trending Idaho, North Dakota, Oklahoma, and Wyoming? The geographic picture, on the whole, is ominous for Republicans.

Why is this happening? Because the information age elites are trending Democratic.

Every year, *U.S. News & World Report* lists the 50 top universities and the 50 top liberal arts colleges in America. Eighty-six of the 100 schools it lists are in counties that went for Al Gore in the 2000 presidential election. That would be no big problem for the GOP if these counties contained only faculty members and assorted academic hangers-on. Nobody expects Cambridge, Massachusetts, or Madison, Wisconsin, to go Republican. But over the past two decades, university towns have become the dynamos of the information age. Stanford now sits in the middle of the most entrepreneurial region on Earth. The Research Triangle in North Carolina is a thriving hub of capitalist energy. Office parks are springing up around Haverford, Swarthmore, and Bryn Mawr on Philadelphia's Main Line. And all these places are changing from Republican regions to Democratic strongholds.

Al Gore's class war rhetoric failed among the white working class. But it worked beautifully among affluent, educated women.

This isn't a new pattern, of course. Affluent suburbs have been trending Democratic for at least 20 years. A few years ago, *National Journal* did a survey of voting patterns in the 261 richest towns in America and found that the Democratic party had made gains in those towns in each of the past five presidential elections. The Democrats won 25 percent of the rich vote in 1980 and 41 percent of the rich vote in 1996. Bill Clinton carried 13 of the 17 most affluent congressional districts that year.

This year, if anything, the trends have accelerated. Silicon Valley used to be reasonably Republican. After this year's election, all seven of the House members from the region are Democrats.

James Chapin, the brilliant columnist for United Press International, has shown that the same sort of pattern is occurring in affluent suburbs across the country. Gore won 57 percent of the vote in the suburbs on Chicago's north shore, which includes prosperous communities like Winnetka and Lake Forest as well as middle-class communities like Niles and Berwyn.

As Chapin writes, "Gore beat Bush in the four Republican-leaning suburban counties around Philadelphia, as well as New Jersey's Bergen and Passaic Counties, which are across the Hudson River from New York City. Gore also carried the two suburban counties north of the Detroit city lines, which include Macomb, home of the Reagan Democrats. In other Republican suburbs, like those around St. Louis, Gore battled Bush to a draw, even while he was losing the state to Bush."

The information age is creating a new type of elite. This is a highly educated meritocratic elite with university values. (Gore beat Bush among people with graduate degrees by 8 percentage points.) They see themselves as artists and intellectuals, rebels and free spirits. Even as they have entered the world of the marketplace, they have brought their bohemian values with them. Although they are now making a lot of money as consultants, TV producers, and software writers, they see themselves as the cultural opposite of those boring Chamber of Commerce white males who vote Republican. They see themselves on the side of the oppressed, the gays, the minorities, the working class.

When Al Gore launched all that class war rhetoric at the Democratic convention, many people, including me, thought it was a politically disastrous move. It wouldn't appeal to the working-class non-college-educated folk who were the chief target, and all the contentious fighting talk would turn off upscale voters. We were half right. The rhetoric clearly failed among the white working class. Bush carried white voters with incomes under $75,000 by 13 points, and non-college-educated white voters by 17 points. But the posture worked beautifully among members of the affluent educated class, especially women. Gore won among women with graduate degrees by 22 points. Though they themselves may be making $150,000 a year, they are concerned about widening income inequality. They respond to attacks on the overclass and to laments about the gap between rich and poor (so long as these laments aren't accompanied by any actual policy ideas for doing anything about it—a very important point).

In these quarters, support for the Democratic party is like the African totem on the wall and the Shaker table in the eat-in kitchen. It is a sign that you haven't sold out. Even though you have achieved a lot, you remain faithful

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to your countercultural ideals. And the funny thing is that many of the people in places like Silicon Valley who vote Democratic detest intrusive government with a fervor that would make a libertarian blush.

These voters present a long-term problem for the GOP. As the information age continues, there will be more and more of them. In 1980, 27 percent of the voters had college degrees. Now 42 percent of the voters do. When Reagan won, it wasn't even worth counting the number of voters with advanced degrees. Now their number approaches 10 percent of the electorate. They control the cultural and commercial heights of the country. They are part of the coalition that gave the center-left candidates, Gore and Nader, 52 percent of the vote.

For Democrats, these trends are a boon, yet present a short-term quandary. Most Democrats seem to feel that the political breezes are truly blowing in their direction. Democrats have gained ground in every election since 1992, with the notable exception of 1994. That Republican victory was huge, but it is now clear that it wasn't the precursor to an era of Republican dominance, as many thought at the time.

How far left has the pendulum swung? Is there an opportunity for a great liberal offensive, or is this now basically a moderate country with a slight Democratic tilt?

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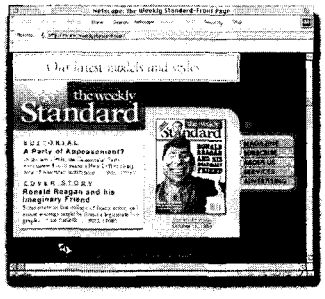

The press always talks about splits inside the GOP, but the Democrats are actually the more riven. You can tell because even amid the furor of the Florida imbroglio, when Republicans were united in their anger and concern, Democrats were already arguing amongst themselves. The liberals, on the one hand, and the centrist New Democrats, on the other, were pointing to the results as vindication for their views. And if you want to know what kind of campaign Al Gore ran, all you have to do is observe the tone of these essays. The liberal authors are cheerful and see the Gore campaign as a wonderful harbinger of things to come. The New Democrats are detached and regard the Gore campaign as a missed opportunity.

Two of the best thinkers on the liberal side are John Judis and Ruy Teixeira (pronounced Rooey Teshera). Judis wrote an essay for the *New Republic* with the provocative headline "How George McGovern Won Election 2000 for the Dems." Judis's argument is that in 1972 George McGovern tried to build a three-legged coalition: minorities, highly educated social liberals, and union members. He failed, because the union members deserted him. But it was this coalition that Gore rallied to win the popular vote.

This coalition is crucial, Judis says, if Democrats are going to win key states. In Michigan, he notes, Gore won 91 percent of the black vote, 64 percent of the union vote, a majority of those with advanced degrees, and a majority of those with incomes over $75,000 a year. He carried the state even though he did poorly among nonunion households with incomes between $30,000 and $75,000 a year.

A version of this coalition can even win elections in some southern states. In North Carolina's gubernatorial race, Judis notes, Democrat Mike Easley won 90 percent of the black vote, 56 percent of the voters with advanced degrees, and 57 percent of those with incomes over $100,000, which more than compensated for the fact that he did relatively poorly among non-college-educated whites.

The implication, of course, is that the Democrats don't need to worry about those non-college-educated whites, with their hostility to big government and their conservative social values. Instead, they can appeal to the educated class by being pro-choice and anti-gun. They can appeal to blacks via racial solidarity. And they can win union votes with a liberal economic agenda. One plus one plus one equals a ruling majority.

In an essay in the *American Prospect*, Ruy Teixeira considers some of the same data. Gore did phenomenally well among blacks and well-educated white women. And Teixeira concludes by pointing to essentially the same three-

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legged coalition Judis emphasizes: minorities, educated liberals, and working-class or union voters. But drawing on poll data by Greenberg Quinlan Research and others, he further argues that the Democrats have a huge issues advantage and that the only reason Bush was able to tie the election is that he blurred policy differences and thus could highlight Gore's personal weaknesses. Teixeira notes that according to the Greenberg Quinlan poll, 40 percent of voters saw no difference between Gore and Bush on Social Security, and 50 percent of voters saw no difference on prescription drugs and a patients' bill of rights.

Teixeira argues that when informed about the actual proposals, not only Democratic voters but even many Republican voters actually prefer Democratic ideas on Medicare, Social Security, prescription drugs, standing up to HMOs, and so on. The Democrats' strategy in the future, therefore, must be to push these government programs harder. Like Judis, Teixeira admits that some voters are turned off by the Democrats' liberal social policies, but he does not seem to worry that the party will alienate swing voters by promoting big government programs.

New Democrats argue the exact opposite. They say that the Democratic party will forfeit its momentum if it abandons the New Democratic task of reinventing government and reverts to the liberal task of reinvigorating it. A post-election poll for the Democratic Leadership Council done by Penn, Schoen and Berland Associates points out that 47 percent of the electorate regards itself as "moderate." Bill Clinton carried those voters by 24 points over Bob Dole in 1996. But, stressing populist as opposed to New Democratic themes, Al Gore carried those voters by only 8 points over George W. Bush. Gore also did much worse than Clinton among younger voters. Clinton won voters under 29 by 19 points, Gore by 2 points.

The DLC study argues that Gore's policies were more popular than Bush's, but Bush's themes were more popular than Gore's. The theme of smaller government appeals to a lot of voters, the DLC memo concedes, and Gore did nothing to inoculate himself against Bush's charge that Gore was a big government Democrat.

Moreover, the Penn, Schoen and Berland poll asked voters to rate themselves politically, with 1 being extremely liberal and 9 being extremely conservative. The average voter put himself at 5.42, a little right of center. The average voter put Al Gore at 3.92, 1.5 points further to the left, while he put George Bush at 6.48, only 1.06 further to the right. Thus, Bush made himself appear closer to the average voter than Gore. (Interestingly, voters think that Dick Cheney is more moderate than Bush, a sign of the importance of a calm delivery.) By losing the race to the center, the DLC people argue, Gore lost ground among the middle class. Clinton carried voters with incomes between $30,000 and $75,000; Gore didn't.

Finally, the DLC study tried to discover which themes had the strongest pull for voters. They found that Gore's theme of "People v. the Powerful" made 41 percent of the voters much more likely to support him, and Bush's theme of "I trust the people" also made 41 percent of the voters feel much more likely to vote for him. But the single most resonant theme was the relatively non-ideological promise to "change the tone" in Washington. Gore's themes were attractive to the Democratic base, but his populist message does not appeal to moderate voters the way an anti-ideological, "change the tone" message does.

So the DLC types, to no one's surprise, argue that the path to future electoral success is the Third Way path that Clinton and British prime minister Tony Blair have charted. It emphasizes centrist themes like community, opportunity, and responsibility, and offers centrist policy ideas that don't pretend government can solve people's problems, but use government to give people the tools to solve their problems for themselves.

If one had to guess which side will win the intra-Democratic party debate—to the extent that there is ever a clear winner to these sorts of struggles—one would have to say the liberals will dominate. One of the central messages of the Gore campaign was that the Democratic party is in a mood to reject the DLC implant. The party was willing to accept it when it believed that the DLC route was the only way to victory, but now liberals no longer believe that. Bill Clinton, the charming if unfaithful New Democrat salesman, is gone, while in the Senate there are a slew of new liberal leaders—Hillary Clinton, Debbie Stabenow, Jon Corzine, Mark Dayton, and so on—who will only bolster the liberal side of the argument.

Which, despite all the trends that are running against the GOP, may be the Republicans' best hope, at least in the short term. Reading through the DLC agenda—give people the tools to help themselves, stress responsibility, blur polarizing social issues, reform programs like Social Security—one is struck by how well it describes the Bush campaign. The swing portion of the suburban electorate may still respond to DLC appeals, so that whichever presidential candidate hews most closely to that line wins. Even with the geography of the information age working for them, the Democrats may be on the verge of going off the deep end and blowing their advantage. After all, it's their turn to screw up. ♦

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Funding for *The First Measured Century* was provided by T. Rowe Price, Pfizer, Inc., the Lynde and Harry Bradley Foundation, the John M. Olin Foundation, the Bernard & Irene Schwartz Foundation, the Smith Richardson Foundation, the D & D Foundation, PBS, and the Corporation for Public Broadcasting.

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Books Won't Furnish a Room

The end of my days as a bibliomane

By Joseph Epstein

After more than a decade, our apartment is being repainted. Rugs have gone off for cleaning. Furniture that we have had for more than twenty years is being replaced. The sense of a new leaf is upon me, which has brought on the urge to live, somehow, differently than I have until now. No way could be more different than to remove vast quantities of books from this always book-crammed apartment. Books do, as the old saying has it, furnish a room, but, it has only recently occurred to me, where is it written that they have to furnish every room?

"Of making many books, there is no end," Ecclesiastes reports. Of collecting them, it's even worse. Such were my thoughts before making the decision to cut back radically my library. At a rough guess, I would say that I owned perhaps two thousand books. I set out to prune this number back to four hundred or so. I've now done it, with the result that, like Henry James when he shaved off his beard at fifty-seven, "I feel forty and clean and light."

More than thirty years ago, I trimmed down a much smaller library. In my twenties then, I was moving from New York to Little Rock, and couldn't afford the expense of sending by movers the three hundred or so books I then possessed. So I called in the owner of a used-book store on Fourth Avenue. Off went almost all my books in a couple of shopping carts. I remember my sadness as I watched them go. Nothing fancy was included; it was chiefly the library of a young man, slightly Anglophiliac, with literary aspirations: novels and poetry, some ancient and some British history, some philosophy. I had acquired most of these books during lunch hours when I worked on a political magazine on 15th Street; in those days I roamed the Fourth Avenue and University Place used-book shops, the intellectual equivalent of the drunken sailor in port, in Shanghai, after months at sea.

I did keep a small number of these books. Among them was a handsome Bodley Head edition in green covers of *Ulysses*, six or seven slender volumes of Max Beerbohm, and a six-volume edition of Macaulay's *History of England*. Until recently I continued to own these books—though, after letting it sit unread on my shelves for more than thirty years, I finally sent the six volumes of Macaulay's *History* off to my son. There I expect they will remain unread for thirty or so more years, at which time I hope he will pass them along to his son, who will go and do likewise.

I reacquired all the books I gave up and many hundreds more in the intervening years. Books long ago threatened to take over my apartment; and my guess is that, had I remained a bachelor, they would easily have done so. Any flat space is fair game to the book collector, and there are the stories of scholar-bachelors—Harry Wolfson of Harvard among them—using ovens and refrigerators to store books.

My friend Edward Shils was too good a cook to permit that in his own apartment, where he kept some fifteen thousand books (with another five or six thousand in his house in England). But he did convert a small bathroom in his apartment into a book repository, having bookcases built around and over a bathtub and toilet and sink. Eight-foot-high bookcases lined the walls in all the rooms and all the hallways in his large apartment. Books, magazines, and manuscripts covered all the tables and chairs not in use.

Hulton Getty Collection

You may have some nodding acquaintance with this library, because it appears in a spiteful portrait of Edward Shils in Saul Bellow's recent novel *Ravelstein*. "When you first came into his apartment," Bellow writes, "your respect for him grew. On his shelves there were full sets of Max Weber and all the Gumplowitches and Ratzenhofers. He owned the collected works of Henry James and of Dickens and the histories of Gibbon's Rome and Hume's England as well as encyclopedias of religion and masses of sociology books. Useful for propping up windows when the sash cord broke, I used to say."

Joseph Epstein is a contributing editor to The Weekly Standard.

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Not bad as far as it goes, though it doesn't go anywhere near far enough. It leaves out the delight acquiring these books gave their owner, who was not a passionate collector merely, but had read every book he owned and seemed to forget nothing about any of them.

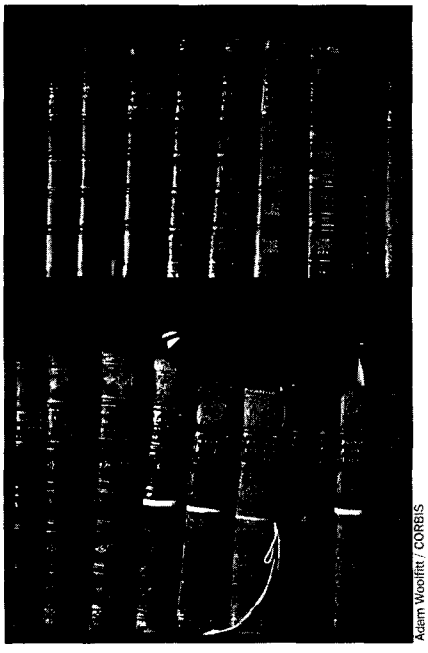
As one of the trustees of Edward Shils's estate, it fell to me to dispose of this magnificent library. I hated to see it broken up, for it was in itself a work of art. But I finally sold it to a local bookseller who later, I am told, sold it to a small German university. There, presumably, it sits, used by earnest German undergraduates getting up various lengthy and heavily footnoted papers of a doubtless dour kind.

Alone, surrounded by my friend's much-loved personal library in his empty apartment, I would wonder about the purpose of laying in so large a supply of books. These books gave Edward Shils keen pleasure, and he put them to the highest use. Their pertinence was so much greater when he was alive to preside over them. Now they seemed inert, cumbersome, almost grotesque in their plenitude. Look on these tomes, ye learned, I thought, and despair.

The possibility of cutting back my own personal library first hit me with real force a month or so ago, when I visited the apartment of a new neighbor, a productive historian of America who had recently moved into our building. After he had shown me around his apartment, I asked, "But where do you keep your books?" To which he jauntily replied that, apart from some dictionaries and fairly standard reference books, he didn't have *any* books; with a good public and a large university library within three blocks, he didn't feel the need. His apartment seemed light, airy, much more spacious than mine, though it is in fact a bit smaller. And this man, please understand, wrote books that required serious research; he was no mere *schmoozer*, unlike another writer I know—me, who almost remained nameless.

An apartment without lots of books in every room? Was this possible? With the exception of our bathrooms and kitchen, every room in our apartment had at least one and usually two or three or more jammed bookcases. A small number of these books were my wife's, but the vast cumbersome majority were mine. The thought of living without books in our midst simmered in my low-fire brain for a week or so, and then, like a basketball team breaking with a resounding clap from a huddle during a time out, I said to myself, all exclamation marks: "Yes! Go! Do it! Now!"

Getting rid of most of my personal library comported nicely with my long-held fantasy of traveling light, existing with minimal encumbrance, living simply. A fantasy it has always been, for the



Adam Woolfitt / CORBIS

longer I have lived, the heavier has my equipage grown. Neckties, spectacles, fountain pens, wristwatches, tuxedos, prints, small sculptures, and of course endless books—accumulation has gone on and on. I am a man who owns an electric shoe-shining machine. Far from simplifying, I have complicated my life; far from lightening up, I seem everywhere to have weighted myself down. But if I could toss off all these books, here, yes, was a felicitous start.

My library could have been much larger, you understand. Bulky though it seemed, I actually tried in recent years to keep it under control. At one point, when I edited a magazine that ran a book-review section, books arrived at my apartment in what it would not be imprecise to call profusion. Soon, though, discrimination kicked in, and I realized that I didn't need any books about the New Deal, let alone studies of the WPA, nor any on ecology, theology, technology, and a number of other large subjects. Still, I was a sucker for biographies of composers, the letters of poets, the memoirs of high-level European statesmen. Surely, one couldn't have too many critical studies of Turgenev, or biographies of Matthew Arnold, or diaries of *Mittel*-European dilettantes, could one?

Turns out, one could, and soon I did. I began to weed things out, lest books threaten to take over, leaving me, like the poor fellow in Poe's "The Cask of Amontillado," completely bricked in, or, in my case, booked in. I began to tell myself that, for every new book I allowed in, one had to go out. I ceased dropping into used-book stores, those pool halls for the bibliomane. I bought very few new books. Yet I continued to collect sets of books, such as the Yale edition of the works of William James in multiple volumes. Someone gave me the *Cambridge Modern History of Europe*, a mere thirteen vols. How could I turn it down? How could I not provide a home for four exceedingly well-edited volumes of the letters of Samuel Johnson? And so it went. My attempts to set up restrictions on the model of strict immigration quotas didn't come to much; the print hordes could not be stopped.

How much of all this did I actually read? If I give the impression of a fairly well-read person, it is an impression merely. Much of what I have read has been in connection with things I have written. Like most writers, I am a slow reader; as a writer, when reading I try to discover how the better writers do it and, while I'm at it, steal from them what I can for my own scribbling. This tends to slow a fellow down. Gazing at my library, I realized that, given all the hours I spend reading newspapers and magazines, I probably had more—much more—print on hand than I could hope to read in the time remaining to me on the planet. Getting rid of most of these books would be an earnest of my belief

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that life was finite, a fact in which I claimed to believe.

Having read a book, most people seem to feel it has become a part of their autobiography and thus must be saved, like an important family document. I am not among these people. Deciding which books to banish, I found an almost shocking absence in myself of such sentimentality.

George Orwell was a key figure in my education, but I was surprised to find myself able to let go his four volumes of collected journalism and letters without a whimper. Edmund Wilson was even more important, and I owned the two dozen or so of his squat books and four or five books about him. Those babies are out of here, and all I saved is a recently published volume of his uncollected writings (which I haven't yet read), *Night Thoughts* (his book of light verse and parodies), and *Shores of Light* (his first collection of book reviews). A.J. Liebling gave me more pleasure than any other journalist of my time, but at the moment this apartment doesn't contain a single baroque sentence of his. I also let go four volumes of Joseph Mitchell, though kept his *The Bottom of the Harbor*, because he sent me an inscribed copy. Orwell, Wilson, Liebling, Mitchell, these are writers whom I loved when young and greatly respect even now. That I so easily let them go will give you some notion of the ruthlessness of the man you are reading.

I tried to devise principles for keeping the books I did. Usefulness and rereadability was the best I could come up with. (Add to this pure pleasure: I couldn't let go of a small paperback of *The Lyrics of Noel Coward*.) I thought I had a few other principles under construction, but each of them, freshly devised, fell before my reluctance to let certain books go. No need for biography, I thought, but then I decided to keep a scholarly edition I own of Boswell's *Life of Johnson*; and also—why not?—Donald Frame's biography of Montaigne. I also kept a biography of John Dryden, because I've never read one. I let go biographies of Rousseau, Balzac, Hazlitt, Jowett, Emerson, Henry James, William James, Justice Holmes, Keynes, Edmund Gosse, Walter de la Mare, Vladimir Nabokov, Lord Berners, A.J. Ayer, and many others.

A London bookshop during the Blitz. Hulton Getty Collection

I sold off not only the recent biography of but all the books I owned by Isaiah Berlin—the complete run, I believe—even though over the years I think I learned a thing or two from his writings, especially about the great nineteenth-century Russian writers. Berlin put me onto Alexander Herzen, whose four-volume *My Past and Thoughts* I did not dispose of. I first read it in my late twenties, recall how rich it is, and dream of reading it once again before check out time.

Yet having derived pleasure from a writer in the past didn't strike me as a good enough reason to keep his books forever. Not a scrap of H.L. Mencken is now in this apartment. I almost lost my nerve and saved the three volumes of Mencken's autobiography, my favorite among his works, but decided—steady, friend, steady—to be stern and let the old boy go without a tear.

Lots of history wound up on the book-buyer's cart. I parted with 602 pages of *Russia in the Age of Peter the Great*, 654 pages of *Men, Women, & Pianos*, and a cool 1,018 pages of *A History of the Byzantine State and Society*. I kept mostly ancient history: Thucydides and Herodotus and Plutarch, the narrative *Alexander to Actium* by Peter Green, a few volumes of Theodor Mommsen on Rome. I sent off to a younger friend six volumes of the essays and lectures of Arnaldo Momigliano. No works on American history remain on the premises, apart from Tocqueville's *Democracy in America* and Henry Adams's histories of the administrations of Jefferson and Madison and the historical volumes that I have in the Library of America series.

I rid myself of six volumes of the plays of George Bernard Shaw without a flicker of doubt. The only plays I now have in the house are those of the three guys from Athens and the thirty-six written by the fellow with the receding hairline and large forehead from the river town in England. I'm not keeping a word of criticism about the man. But then I never have had much interest in the unremitting torrent of books of Shakespeare criticism—it is a Big Muddy into which I never cared to step, lest I come up, bespattered, in the fleshy-armed embrace of Professor Harold Bloom.

I watched the books of Walter Benjamin leave without registering the least fibrillation. Robert Musil's *The Man Without Qualities* accompanied them with the same equanimity in my breast. (I wish I had owned some of the French literary theorists, if only for the delight it would have given me to get rid of them.) I was not, overall, kind to German writers. I kissed poor Franz Kafka goodbye. I bid good day to Thomas

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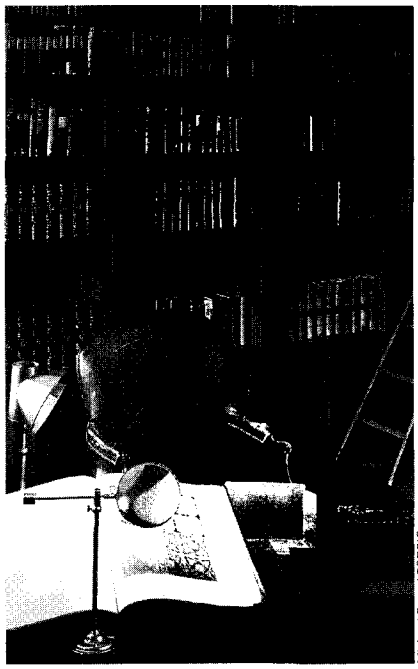
Mann, keeping only *Joseph and His Brothers*, which I haven't yet read. I did keep a few items—in paperback—of Nietzsche and two of three promised volumes of a biography of Goethe by Nicholas Boyle along with *Conversations with Eckermann*. Goethe is a writer I'd rather read about than actually read. I kept a few Schopenhauer items, including *The World as Will and Representation*; his unrelenting darkness for some reason charms me.

I shall genuinely miss a number of books I couldn't somehow justify keeping: Delacroix's *Journals* and Julius Meier-Graefe's *van Gogh*, though I felt no qualms about unburdening myself of ten books by E.H. Gombrich. I shall miss the amusing and highly idiosyncratic books on France and French culture by Richard Cobb. I gave up a deluxe paperback set of Anthony Powell's *A Dance to the Music of Time*, which provided much delight when I first read it. I gave up, too, the six volumes, in another deluxe paperback edition, of Casanova's memoirs, which I've never read and probably never will. Leaving the room in which it sat, I used to run my index finger across its spines and query, "Yo, Giacomo, getting much?"

Asked if he read novels, the English philosopher Gilbert Ryle replied, "Yes, all six," by which he meant the six novels of Jane Austen. For someone who reads more novels and stories than anything else—"the biography you can make up," Peter Ackroyd once said, "the fiction has to be the truth"—I am not keeping all that much fiction. I did hold on to my Oxford University Press edition of Jane Austen. I kept a two-volume boxed edition of the stories of Somerset Maugham. I retained three volumes of Jorge Luis Borges—stories, poems, non-fictions—that astonishing blind man of Buenos Aires who, through the purity of his literary impulse, turned himself into a figure in world literature.

The Russians did not do well in this purge. I let go all the stories of Chekhov, plus two biographies and two collections of letters, even though he is a writer for whom I have great admiration; I kept a two-volume Penguin edition of *War and Peace*, but no Dostoyevsky whatsoever. I retained the *Complete Stories of Vladimir Nabokov*, and *Speak, Memory*, but not *Lolita*. In paperback, I've kept seven Balzac novels and *The Leopard* and *Confessions of Zeno*, the latter two swell continental novels that I love and hope one day to reread.

I retained books of poetry by Cavafy, Eliot, Stevens, Frost, Larkin, Leopardi, Auden, MacNeice, Betjeman, L.E. Sissman, Henri Coulette, Howard Nemerov, and Czeslaw Milosz, among others. I'm also holding on to that most impenetrable of modern books, *Finnegans Wake*, on the assumption that one ought to have at least one book, no matter how


Michael Boys / CORBIS

small one's library, that one will never quite get around to reading. Except for that by T.S. Eliot and Randall Jarrell, all criticism of poetry got the delete key.

Keep no writing about other writers, I announced early in the game, but then I found myself making a few exceptions. I couldn't let go of Samuel Johnson's *Lives of the Poets*. I kept Paul Valery and Desmond MacCarthy on literature, Clement Greenberg on art, Edwin Denby on dance, and Donald Tovey on music. I seem to have written four books of essay on literature myself; these—you will be shocked to learn—were given special dispensation and have been allowed to remain; also nine other of my books, sacred and profane. I also kept the two copies each of the two books in Yiddish that my grandfather wrote and that my father paid to have published. I hope my own grandson will one day be as kind to me.

I let go of nearly a full bookcase of books of music criticism and biography, though keeping two volumes of my late friend Samuel Lipman's essays on music. I hesitated about saving some Virgil Thomson, whose prose is always a good reminder of what lucidity looks like, but finally cut him loose. I had less compunction about seeing off the less than lucent books of Charles Rosen and the vastly more fluent ones of Ernest Newman. I have always enjoyed reading things by and about Stravinsky, but I retained only a slim book of his called *Memories and Commentaries*. I kept a book of Ravel's writings, because he is in my pantheon of modern artists, not alone for his elegant music but for saying that he got more artistic use out of an hour of joy than out of months of suffering. Lots of musical biographies will now have new homes. Was I ever really going to find time to read a five-hundred-plus page biography of Gabriel Fauré? Not, I strongly suspect, in this life; and perhaps not in the next life, either. I had meant to keep a collection of pieces by Proust's friend the composer Reynaldo Hahn, but it got away.

Proust, however, didn't. I saved a full shelf of Proust, in a glass (if not cork-lined) bookcase, along with three fat Proust biographies. Proust is among a small number of writers whom I not only love to read but can endlessly read about. Henry James, Edward Gibbon, and George Santayana are three others, and I kept all of their books that I had (most of James's fiction is in my Library of America volumes). The works of these four writers, along with those of Max Beerbohm, fill one bookcase.

What does it say about me, I wonder, that, after a lifetime of reading, these are the five writers about whom I care most? Three of the five were overweight. None was exactly a sexual conquistador. All took up a detached atti-

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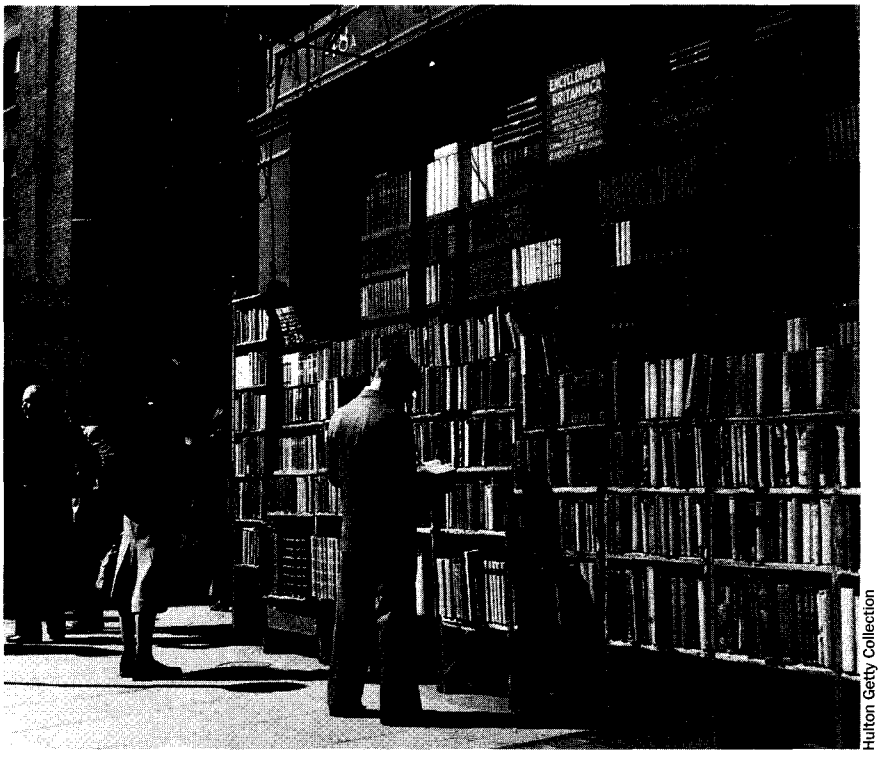
tude toward the life of their times—the entire quintet produced no children—and cared tremendously about style. I would love to tell you what the deeper meaning of my love for them is, but I cannot because I gave away my six volumes of the *Collected Papers of Sigmund Freud*, and though I kept the two-volume *Principles of Psychology* by William James, I don't think he will be much help in this line.

I kept thirty or so reference books: French, Latin, Italian, and German dictionaries, *The Oxford Classical Dictionary*, *Bartlett's* and *The Oxford Dictionary of Quotations*, H.W. Fowler's *Modern English Usage*, *Chambers Biographical Dictionary*, a couple of music dictionaries, a French and an English grammar, the excellent *Brewer's Dictionary of Phrase & Fable*, and (my main man) Merriam-Webster's ninth *Collegiate Dictionary*. I once yearned to own the multi-volumed *Oxford English Dictionary*, but, now that I have the use of it through my computer, I have ceased to long for its bulky, magisterial presence on my shelves. I had two sets of the *Encyclopaedia Britannica*, for which I long ago worked, and unloaded the later one that Mortimer J. Adler mucked up by dividing it into dreary things called *Propaedia*, *Macropaedia*, and *Micropaedia*.

I need a new coffee table, if only to support the small number of coffee-table books I have kept. These include a volume of the drawings of Piranesi and another of those of Saul Steinberg and a third of the caricatures of Max Beerbohm and a fourth and fifth of the photographs of Henri Cartier-Bresson and Atget. Add to this a volume on Vermeer and a collection of the drawings and cartoons of Ralph Barton.

I have three different Bibles in the apartment—a work, the Bible, I've not yet read all the way through and tell myself I must before I am hit with a most unpleasant quiz administered at certain pearly gates. I unloaded Maimonides's *Guide to the Perplexed*, since I am myself far too perplexed on the subjects of which he writes to make much use of it. I let go two works on Jewish mysticism, reasoning that I am still a long way from mastering Jewish rationalism. I did keep one volume of Plato and two containing all of Aristotle. I also kept nine slender volumes, most of them in paperback, of Wittgenstein—not because I pretend to understand him or that he gives me solace but because I like the shape of his sentences, even in English translation. Of the French *moralistes*, I retained La Rochefoucauld and LaBruyère, but let Joubert and Chamfort go. I shall know where to find those boys if I need them.



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I'm counting, really, on finding any books I need at my nearby libraries. One of the longstanding clichés of book owning is that, as soon as one gives a book away, one instantly has need of it. Doubtless it is fine to have all the books one requires at hand, so that one only need step into the next room to discover the precise phrasing of that quotation, date of that royal marriage, spelling of that place-name. But the best way to arrange this is to move into the library, living the way certain wealthy retired men choose to do on the edge of a golf course.

I have almost as little desire to live in a library as I do on a golf course. I seek a compromise: living in a place where not every wall has a bookcase. I hope that by now the book collector's impulse is dead in me. With luck, I expect always to have the right books to keep my mind engaged, to put me gently to sleep at night, to be on hand to distract me during bouts of insomnia. I'm far from ready to go so far as Philip Larkin and say that "books are a load of crap." But in selling off my books I felt I was freeing myself in some way, entering another stage in life—though I'm not altogether clear what it might be. Behind my selling all these books was a longing to streamline my life a bit, make it feel less cluttered, encumbered, book bound. In doing so, I feel as if I had gathered my desert-island books about me without actually having to sail off for the island.

Fine things books, but perhaps the moment has come to stop taking them so seriously. Who was it said that people who are always reading never discover anything? I'm not sure if that is true, but I do know that reading and thinking are not necessarily the same thing. Sometimes reading supplies the most cunning of all means of avoiding thought. It would be good once in awhile to try thinking without the stimulus of books, to become not an out-of-the-box—never, please, that—but at least an out-of-the-book thinker. Books may furnish a room, but there surely are other things quite as suitable for furnishing a mind. Time, I think, for me to attempt to find out what these might be. ♦

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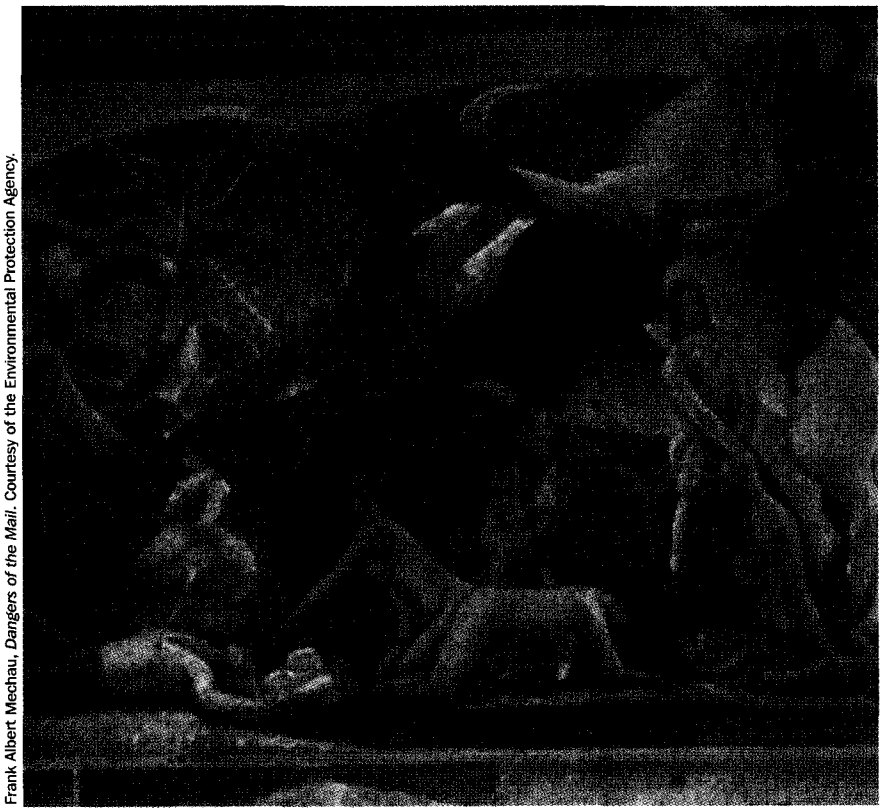

Frank Albert Mechau, *Dangers of the Mail*. Courtesy of the Environmental Protection Agency.

EPA vs. WPA

The new left battles the old left over murals in Washington. **BY STEPHEN SCHWARTZ**

In Washington, D.C., down in the nest of government buildings known as the Federal Triangle, there's a colossus called the Ariel Rios Building. Nowadays it houses the Environmental Protection Agency, but back in the 1930s, it was used by the postal service.

The 1930s, you'll remember, were dominated not just by the Depression, but by the various New Deal responses to America's economic catastrophe. We had the NRA, the CCC, the REA—the whole alphabet soup of federal agencies. Not least among these was the Federal Arts Project of the Work Projects Administration, the relief agency that responded to the poverty of America's artists by giving each of them a can of paint and telling them to decorate the walls of America's public buildings.

Stephen Schwartz's latest collection of essays, Intellectuals and Assassins, *has just been published in Britain.*

Most of the result is pretty awful. It's all dreary depictions of what passed at the time for "social art"—which proves, upon inspection, to be endless scenes of socialist uplift: big-muscled workers and strong-backed farm women, drawn together by the mystical communion of physical labor, surveying a future without bankers or capitalists.

Perhaps we shouldn't be surprised that three-quarters of the most depressing art of Washington was made in the Depression. If you want to see a recently controversial example, you can head down to the Ariel Rios Building and take a look at *Dangers of the Mail*, a WPA mural splashed across its walls.

Or rather, you used to be able to go down and see *Dangers of the Mail*. You can't anymore, because it is on an upper floor reserved for employees. But that is also politically convenient—as well as politically correct—because the Environmental Protection Agency is just too embarrassed to leave it open to public view. Unfortunately, that's not because it's one of the eyesores the wise critics of the EPA might decide to abolish, but because it depicts some indigenous Americans (the people formerly known as Indians) as savages who constituted one of the old dangers of delivering the mail.

The act of hiding a mural in a federal building may seem a bit in conflict with the original concept of "public art" as pursued by the New Deal's Work Projects Administration. But that is not the only contradiction lurking in the background of this story. The debate over the content of such creations resurfaces every few years—always pitched as the dilemma of artistic expression versus multicultural sensitivity. In a recent front-page account of the controversy over *Dangers of the Mail*, the *Washington Post* referred to the "thorny debate that has dogged public art in the United States for decades—which version of American history should our public buildings tell?"

That leaves open, of course, the question of why our national buildings—many of which are monumentally grand enough to tell something of history all by themselves—need to be decorated in populist comic-book style. One never-mentioned fact about the 1930s, Marxist-inspired mural genre in America is that it was not introduced in response to the just demands of striking workers or protesting farmers, but in response to certain of the very rich anxious to demonstrate their affinity for the latest fads.

The Mexican Marxist muralist Diego Rivera was commissioned to paint one in Detroit in 1932 by none other than Henry Ford's son Edsel, and many people dimly recall the controversy at Rockefeller Center when Rivera's gigantic panel executed there turned out to depict V.I. Lenin as the guide to the future.

Curiously, what the Rockefeller Center incident illustrates is that the debate over such art during the 1930s was considerably livelier than it is

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today. When *Dangers of the Mail* was first unveiled, its unveiling was doubly provocative, for the artist had depicted European American women unclad while being scalped and otherwise harassed by the aforementioned Indians. "Nude Scalping Mural" was how the *Washington Post* referred to it then.

For a piece of WPA muralism, *Dangers of the Mail* is actually pretty good. The painter, a man from Colorado named Frank Albert Mechau, was a leading Western artist in his own right, not merely a Bolshevik dauber paid to produce murals as a form of work-relief. Still, who among the public ever said they desire this kind of decoration of official buildings anyway?

The vast majority of those calling for "public art" back in the 1930s were unemployed Marxist artists, and the vast majority calling for it now are third-rate academics who lecture on the centrality of Marxist art in American culture. (And doesn't anyone think it was tasteless of the *Washington Post* to bring up savage indigenous Americans in the middle of the Thanksgiving season?)

WPA art was almost always based on one of a pair of dishonesties: Either it memorialized an official, bland account of American history, or it enshrined the clichés of the People's Front. You had your happy homesteaders or your starving sharecroppers, your Pilgrims or your paupers—or, worst of all, a mix of the two, which pointed to the lost populist paradise befouled by capitalism.

The public mural movement was seldom, if ever, highly patriotic. Bob Smith—a descendant of the Oneida tribe who works for the EPA—declared that the General Services Administration "talks about the need to understand the mural in context, but how could we do that? . . . Would you put up a big scene from Wounded Knee or Sand Creek?" (which the *Washington Post* helpfully described for its readers as "two infamous massacres in which hundreds of Indians were killed").

But that is, in fact, exactly what the classic works of Diego Rivera did: showed two sides of Mexican history. Although I dislike the mural genre intensely, I have to admit even I was impressed, on a recent visit to Mexico City, by Rivera's famous *Bellas Artes* panel portraying the central figures of the Mexican epic. Rivera was inclusive: He put brutal conquistadors and violent Indians side by side to express the nature of Mexican identity.

And although the EPA may be unaware of it, the proliferation of pro-Indian, anti-settler art has been so

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extensive in recent years that murals recalling atrocities against indigenous Americans are now to be found from California to New York.

Indeed, who wants to bet that in a generation there won't be a mural in Florida depicting a U.S. marshal seizing Elián González? Or, in line with the general trend of public muralism, of Al Gore waving a Florida ballot card?

Of course such creations always seem to reflect the leftist view of American history. The Muro-Marxists would doubtless mount picket lines if anyone were to propose a mural of Ronald Reagan at the Berlin Wall.

The history of Muro-Marxism, especially in more recent times, is replete with anecdotes revelatory of pure lunacy on the part of the genre's practitioners. When, in the mid-1980s, the waterfront unions of San Francisco commissioned a monument to the participants in the 1934 West Coast maritime strike, even some of the militants in the union leadership were amazed that the work represented strikers of that era, most of whom were Scandinavian sailors and dockworkers, as presumptive Asians of indeterminate sexuality. Neither white nor Black (not even, really, Asian), neither male nor female, neither gay nor straight . . . just . . . mannequins. After all, who would compose a memorial to Nordic males today?

But that is not the only instance in which the competing claims of historical revisionists have made the art and criticism of the mural genre difficult to deal with. As the *Washington Post* noted, blacks object to virtually all artistic representations of slavery, regardless of the intent.

So, *Dangers of the Mail* remains hidden down in the Federal Triangle—a victim of the battle between the Left of the 1930s and the Left of today, a symptom of radicalism's rejection even of its own radical history. Of course, one issue in the controversy remains unspoken: Don't we all yearn for the days when scalping Indians provided a reasonable explanation for bad service by the U.S. Mail? ♦

Coming to America

What do they know of England, who only England know?

BY MALCOLM BRADBURY

Malcolm Bradbury—novelist, teacher, critic, and scriptwriter—died in England on November 27, at the age of sixty-eight. He was best known for The History Man, *one of the great academic comedies ever written, and* Rates of Exchange, *a comic attack on communism set in a fictitious country in Eastern Europe. But through all his stories—from the 1959* Eating People Is Wrong *to this year's* To the Hermitage—*there ran a high moral sense that could find expression only in laughter. He was an occasional contributor to* THE WEEKLY STANDARD, *and we reprint in his memory this tale of his first trip to America in the 1950s.*

—The Editors

I was not an angry young man, perhaps, since to me the angry young men were all old, ten years or so older than I was. But I was a niggling one, an uneasy figure struggling in my Englishness, fighting to get out. The British provinces had been swallowing me like an eiderdown; America seemed the great, good place. I left, a young Nottingham intellectual with five published articles to his credit, all in journals of absolutely no importance, and sailed to Florida on a freighter. From there, I took the bus to New York, and rode in the endless elevator up to the top of the Empire State building; below was the great metropolis, looking like a gigantic waffle-iron.

Excitement grew; I took the ferry and sailed out to the Statue of Liberty, while fireboats sprayed me with jets of water; I wandered Macy's and bought nylon shirts, then a new invention that made you ping with static electricity when you put them on and off. The Beat Generation was riding high: I went to poetry readings in gloomy bagel shops in Greenwich Village, where poets in dark glasses would look up to the ceiling and cry, "Come, little bird of poetry, fly down to me" (actually it rarely did). I talked to deviants on benches outside the New York Public Library, while dapper secretaries went by, carrying plastic Lord and Taylor bags. It was different, exciting; yet I still didn't feel I knew what America was.

Then one day the revelation came. I was staying with the parents of a Jewish friend in their small apartment in the Bronx. It was not a notable apartment but it did have a notable American kitchen: a shining bulbous icebox, a glinting split-level cooker, Formica worktops, a whirring blender and mixer, a toaster that threw bread in the air as if in sport, and in the middle of the sink, an object called a Dispose-All which consumed the kitchen refuse and sent it all straight to the sewage company. Commonplace now, it was a wonder of the 1950s; I used to wander in there frequently, just to experience it all.

One day my host came and found me there, staring down the Dispose-All's magnificent orifice, as if seeking the meaning of life. Not speaking, he opened the door of the icebox, took out an entire uncooked chicken, thrust the chicken into the grinder, and switched on. Standing there, watching the machine consume an entire bird, I knew at last that I had seen the New World, and it worked.

I stayed on in the States for a long time, in the American heartland, teaching freshman composition—better known as Readin', Writin', Speakin', and List'nin'—at a university in a cornfield in the midwest. Here I taught

From the introduction to Malcolm Bradbury's All Dressed Up And Nowhere To Go: The Poor Man's Guide to Affluent Society *(1982).*

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coeds in tight sweaters, cantilevered bras, and Elizabeth Arden make-up, and seven-foot-tall footballers with crew cuts and huge ears, who could sit in the third row and still put up their feet on my desk.

I taught them the simple things of life: how to use human language, how to write on pieces of paper from left to right, how to open books without splitting the spine, how to put in verbs to give a sentence the completeness of a sentence. I taught a lot, but I learned more. My students called for me in cars and took me out on dates, teaching me how to drink milkshakes; they showed me the way to the Doosie Duds, where I washed my socks, and the Piggly Wiggly, where I bought comestibles and acquired free Melamine tableware on food orders of five dollars or more.

I thought I was growing American, though the students never quite agreed. "Pip-pip, old chap," they said as they came into a class, "Bin shootin'? How's the Queen?" Indeed, as time went by, a certain excess of Englishness crept into my character.

Though by origin a good deal closer to Jimmy Porter than the Duke of Windsor, I acquired a degree of bearing. My old cheap Harris tweed sports jacket with plastic patches on the elbow (only Oxbridge undergraduates could afford leather) acquired a fine old glow, as if it had been carefully smoked over a peat fire by willing peasants, and then systematically stained with claret by family butlers. I became an expert in politeness, rank, the royal family, hunting, and warm beer.

At the same time my literary ambitions were proceeding apace. For in addition to haunting the coffee bars of Nottingham, shouting about Sartre and nibbling the ears of leggy girls named Ernestine, I had spent three years being a student at a certain nameless English provincial university. A strange youth, who wore pink intellectual shirts and clip-on bow ties that kept falling off suddenly into cups of black coffee, and spent most of those three years writing a novel, about, of course, an English provincial university, I used to sit for hours in the university entrance hall, ostentatiously correcting a large sheet of proofs: "He's a writer," my two or three friends would explain to any passing visitor who happened to stumble in, usually under the impression that they had found the public library. I had once seen T.S. Eliot, or someone very like him, emerge from the offices of Faber and Faber in Russell Square, so I felt alert to everything that was happening in the literary scene; I had even been discovered—by a college friend, the editor of the literary magazine, a man named Michael Orsler, an impressive figure who used to stand naked at the window of his room, shouting "Sex rules the world" to occasional passing suburban shoppers.

Hulton-Deutsch Collection / CORBIS

Sir Malcolm Bradbury, 1932-2000.

Everyone assured me that a book about an English provincial university would never sell, and this confirmed me in my integrity. It was to these talents that I now turned in my office in the midwestern heartland; passing strangers, wandering close to the English department late at night, would hear the tapping of typewriter keys as I wrote down for posterity the benefits of my Anglo-American experience in articles that went to *Vogue* and *Harper's* and *Punch* and somehow managed to appear in print.

It all came to an end, of course. My contract ceased after a year. I posted the final grades on the door of my office and locked myself in, while disappointed students shouted through the keyhole in fury. I said goodbye to my friends, who explained that they had not understood a word I had said all year, because of my foreign accent. I knew, with a kind of dread in my heart, that it was time to go home to England. I knew that going home was always an agony, if not a disaster; that I would miss what I had enjoyed.

I had learned much about America, in the Doosie Duds and the Piggly Wiggly and the long car and bus journeys I had taken right across the nation, there to find more Doosie Duds, more Piggly Wigglies, more and more and more. In a dark, or at any rate decidedly ill-lit, night of the soul, I put all my Melamine tableware into my great footlocker, heaved it lightly under one shoulder, and set off to New York City and the Cunard pier, on that most ancient of quests, the tale of return. Great liners with big red funnels still ran in those days, though plane travel was becoming fashionable in some quarters.

Looking forward to six days of leisure, I climbed aboard the great vessel, a haven of Englishness, smelling of marchionesses, carbolic soap, and good old kippers. Adjustment, after a long spell of America, was exactly what I needed. For I looked around at my fellow passengers, and the severe guardians who formed the crew. They appeared to me odd, until I realized that they were simply English. I would need to learn England all over again. ♦

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We the People

of the United States, in Order to form a more perfect Union, establish Justice, and insure domestic Tranquility, do ordain and establish that all powers shall be vested in four cranky old Geezers in the state of Florida.

Article 1

Section 1. The executive Power shall be vested in a president of the United States. Each state shall appoint, with no interference from any democratically accountable officials in, say, the state legislature, a number of Electors. Those Electors shall reflect the views of the majority of voters in the state, as discerned by the Miami Herald, and under the purview of four Democrats in black robes. In case of dispute, the Supreme Court of that State shall call no fewer than 35,652 Washington lawyers to convene in and around its courtrooms for a series of press conferences and, if necessary, trial-like procedures.

Section 2. The executive shall hold his Office during the Term of four years. After four years a new election shall be held. The Winner of the election will retire to his ranch. The Loser of the election shall appeal the result to a court of his choosing, which shall Name him the Winner. The Loser of the election will then be Granted a Mandate by the New York Times.

Section 3. Every vote shall count. Every vote cast shall count. Every vote miscast shall count. Every vote anybody even thought of casting shall count. If a citizen so much as exhaled on a ballot, that vote shall count. If any precedent gets in the way of every vote counting, say McPherson v. Blacker, that precedent shall be Roadkill. The counting of votes shall continue until such time as the losing candidate is momentarily ahead. Then all counting shall cease and the Loser will be declared the Winner.

Section 4. In the event of a recount, uncounted, undervoted ballots shall be placed in a clearance bin at the local Target megastore, along with 600 temporarily "lost" ballots that just happened to be found in the trunk of a county official's Dodge Dart. Said ballots shall be inspected and mauled under the supervision of the Master of the Court, Geraldo Rivera.

Section 5. Gore shall win.

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Environmental Protection, in Name Only

Henry I. Miller is a senior research fellow at the Hoover Institution and the author of *To America's Health: A Proposal to Reform the Food and Drug Administration.*

Federal regulations costing Americans approximately 700 billion dollars annually seem as inevitable as death and taxes. All regulations, however, are not created equal. Some are reasonably cost-effective and serve society well; others are so wrongheaded and expensive that they are actually detrimental to society.

Regulation by the Environmental Protection Agency (EPA) has been criticized for being inefficient and unscientific. When the Office of Management and Budget analyzed the cost-effectiveness of a panoply of regulations throughout the federal government, of the thirty least cost-effective regulations on the list, seventeen had been imposed by the EPA. This impression of inefficiency is reinforced in an analysis by Washington, D.C., based Resources for the Future (RFF) of eight major EPA regulatory programs of the past two decades. RFF concluded that the science behind the policy often gets distorted or ignored: "EPA for a variety of reasons is unwilling, unable, and unequipped to address and acknowledge the uncertainties in the underlying science."

The courts have often had to rein in or educate EPA officials. In May 1999, for example, a federal court ruled that the EPA's new air-quality standards were arbitrary and capricious and had to be revised. In May 2000, the U.S. Supreme Court agreed to rule on whether the EPA's policy of deliberately disregarding the cost of its regulations is required by the Clean Air Act. A public policy research institution and forty prominent economists argued persuasively in an amicus brief that the EPA should "consider explicitly the full consequences" of regulatory decisions, including costs, benefits, and any other pertinent facts.

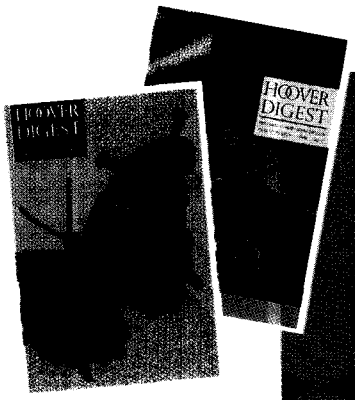
Perhaps the most systematically egregious EPA policies have been those applied to biotechnology. The agency has been consistently at odds with scientific consensus about biotechnology's risk, choosing to focus on the most precise and predictable techniques of biotechnology while ignoring genuinely hazardous products. These policies have been a drag on innovation of products that are particularly environmentally friendly. Under the Toxic Substances Control Act, for example, the EPA focuses regulation on gene splicing—the most precise technique of the new biotechnology—an approach that has halted research into microorganisms engineered to clean up oil spills and toxic wastes.

EPA regulations have also inhibited research on new plant varieties that require fewer applications and lesser amounts of agricultural chemicals. The agency requires the testing *as pesticides* of gene-spliced crop and garden plants that have been modified for enhanced pest and disease resistance. This policy imposes extensive and expensive regulatory requirements on field tests of gene-spliced cotton plants that have increased resistance to insects, for example, but exempts plants with virtually identical traits that were engineered by cruder, less-predictable hybridization techniques. The scientific community has repeatedly condemned the EPA's approach.

Many of the EPA's regulatory programs are unscientific and afford little or no protection to human health or the environment. They have unacceptable costs and divert resources from other legitimate endeavors. They breed well-deserved cynicism about the government's motives. Often, the only environment that benefits is that of the bureaucrats themselves.

— Henry I. Miller

Paid for by the Hoover Institution, Stanford University.



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